

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7086 of 2017

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Pankaj Kumar Son of Late Bhesh Narayan Ram, Resident of Village-Dasai Bigha, P.O. & P.S.-Daud Nagar, District-Aurangabad (Bihar), Pincode-824143.

... .. Petitioner/s

Versus

1. The Bihar Public Service Commission, through its Chairman, 15, Jawahar Lal Nehru Marg, Bailey Road, Patna.-800001
2. The Secretary, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg, Bailey Road, Patna-800001.
3. The Additional Secretary-Cum-Examination Controller, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg, Bailey Road, Patna-800001.
4. Smt. Chandrakanta Kumari, daughter of Not Known, resident of Pyaara Gharaana Apartment, flat number 303, Block A, P.O. + P.S. Chandauti More, District Gaya, 23001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Y.V. Giri, Sr. Adv. Mr. Ashish Giri, Adv.
For the BPSC	:	Mr. Pushkar Narain Shahi, Sr. Adv.
For the Respondent/s	:	Mr. Sanjay Pandey

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 27-07-2018

Heard learned counsel for the petitioner and counsel for the State as also counsel for the private respondent no.4.

In this case, the petitioner is holding the post of Rural Development Officer and has challenged the reduction of marks from 149 to 140 in the combined competitive examination conducted for 53rd, 54th and 55th by the Public Service Commission.

Basically, learned counsel for the petitioner has submitted that the examiner has granted 149 marks in the subject of Labour and Social Welfare-I, has submitted that it has wrongly been reduced from 149 to 140 marks and, on that account, in the merit list, his position was below, had there not been any change in the marks what was awarded as 149, he would have been appointed in the cadre of Sub-Registrar and



further submitted that the answer-sheet, which has been received, itself shows that the marks has been arbitrarily reduced to the prejudice of petitioner by a third person with the impunity and caused irreparable loss to the petitioner.

This Court had directed the Commission to produce the original answer-sheet of the petitioner and that has been produced before this Court for perusal and it appears that the examiner has granted 32 marks in question no.2 which has been reduced by the Head Examiner to 28 by green ink whereas the Examiner has granted 31 marks in question no.3 but, it has been made 30. In question no.5, the Head Examiner approved the marks which has been granted to the petitioner as 27. For question no. 6, examiner granted 32, that marks have been reduced to 28 and for question no.7, he has been granted 27 which has not been touched by the Head Examiner. In total, the Examiner granted 149 marks and that has been reduced to 140 by the head examiner.

The grievance of the petitioner is that the changes which have been made in the marks has not been changed by the Head Examiner as in some of the changes, there is no signature of the Head Examiner as in page no.13, marks has been granted 32 and third person has changed it 28 by green ink and there is no full signature or small signature of the Head Examiner. Learned counsel for the petitioner has also submitted that he filed an application under the R.T.I. to know the principle, manner and method adopted for granting marks, whether they



have followed the scaling method or they have followed the moderation system, the answer has been received that they have neither followed the scaling nor moderation but followed a guideline was basis for granting marks to the each candidates.

Learned counsel for the petitioner submits that guideline which has purportedly been followed has not been produced by the Commission which ought to have been attached with the counter affidavit and it has to be verified whether the petitioner was granted marks in terms of the guideline, whether they have maintained uniform standard in awarding marks or the marks has been granted indiscriminately and arbitrarily.

Mr. P.N. Shahi, learned senior counsel for the Commission has submitted that the original answer-sheet itself shows that the marks in red ink was granted by the Examiner and correction has been made by the green ink by the Head Examiner, except in page no.13, the Head Examiner has put his initial in each and every change. He has further submitted that it is a human error in failing to put his signature but, the Head Examiner has an authority to make necessary correction in marks, accordingly, he has made necessary change in the marks awarded to the candidates, it cannot be said that he had done with bad intention and maliciously. The Head Examiner, after looking to the answer in his wisdom has made necessary change in the marks which he has thought to have been awarded in higher side, has been brought to the proper place. At the same time, the procedure which has been followed by the



Commission in this combined examination was challenged before the Hon'ble Apex Court in the case of Sunil Kumar & Ors. Vs. Bihar Public Service Commission & Ors. reported in (2016) 2 SCC 495 and the contention which has been raised by the petitioner has been recorded in paragraph no.6 and the reply of the Public Service Commission has been mentioned in paragraph no. 8 of the said judgment and, after due consideration, the Hon'ble Apex Court did not find any error in following the guideline which has been formulated by the Commission.

The respondent no.4 has also appeared and participated in the proceeding and submitted that there is no wrong in making necessary correction by the Head Examiner and it always happens, the Head Examiner makes correction to the marks granted by the Examiner. Therefore, the procedure which has been followed in awarding marks has already received final seal of Hon'ble Apex Court in the case of Sunil Kumar case (supra) and the Hon'ble Apex Court did not find any error in the procedure adopted by the Public Service Commission in selection of the candidates for 52nd, 53rd and 54th combined examination. So the point raised by the petitioner that wrong procedure has been followed is not acceptable and the same is rejected.

So far the correction that has been made in the original marks itself shows that in the red ink, the mark has been given by the Examiner and the Head Examiner has corrected by green ink and, by and large, he has put his initial except at page no.13. It may be a human error failed to put his signature or his initial, that will not cause any



harm to the marks granted by the Head Examiner but it is always expected wherever the Head Examiner would make a correction, he would either put his signature or should give an initial so that there may not be any confusion in future that it has not been changed by the Head Examiner.

This Court does not find any substance in the contention raised by the petitioner and, accordingly, this writ application is dismissed.

The original answer-sheet which has been produced before this Court for its perusal is being returned to the counsel for the Bihar Public Service Commission.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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