

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

WRIT PETITION No.2618 of 2018

ORDER: (ORAL)

(Per Suresh Kumar Kait, J)

Vide the present petition, petitioner has assailed order dated 08.08.2017 passed in O.A.No.2177 of 2017 by the Andhra Pradesh Administrative Tribunal, Hyderabad, whereby the application filed by the petitioner under Section 19 of the Administrative Tribunals Act, 1985 has been dismissed.

2. Petitioner applied for the post of Stipendiary Cadet Trainee Reserve Sub Inspector of Police (AR) in pursuance of recruitment notification Rc.No.208/R&T/Rect.1/2016 dated 17.09.2016 issued by State Level Police Recruitment Board, Andhra Pradesh. Petitioner was not selected for the said post. Questioning his non-selection, he filed the O.A. In the process, petitioner also sought declaration of proceedings Rc.No.208/R&T/Rect.2017 dated 15.02.2017 issued by the 2nd respondent/State Level Police Recruitment Board by its Chairman as illegal, arbitrary and contrary to method of moderation etc., and consequently to direct the 2nd respondent to get evaluation of paper-I in final written examination by a third independent examiner.

3. Learned counsel appearing on behalf of the petitioner submits that first examiner has awarded 33 marks after verification, whereas the second examiner has awarded 26 marks, thereby a total of 59 marks, average of which comes to 29.5. The paper would be

subjected to third evaluation only in case where deviation is 10% or equal to 10% of maximum marks for that paper. The deviation between the two papers is 7 and therefore it would not be subjected to third evaluation since the deviation should be 10% of maximum marks. Such a prescription of 10% marks of maximum marks has no rationale because in any event there would not be third valuation at all as there will be not be deviation of 10%.

4. Learned counsel for the petitioner further submits that, if first examiner awards 25 marks and second examiner awards 34 marks, deviation would be still only 9 and it would not be subjected to third evaluation and such prescription of procedure is nothing but arbitrary, just to deny evaluation by third examiner and to eliminate large number of candidates in the process of selection, especially the reserved candidates. Therefore, the process adopted by the 2nd respondent in evaluation of the descriptive papers is nothing but arbitrary.

5. The petitioner is from Zone-III of the State and in the recruitment process, final written test is conducted by the recruitment board with four papers. Petitioner failed to secure minimum marks of 30% in paper-I. Though he secured total of 162.5 marks in papers III and IV put together, he was not selected in spite of the fact that cut-off marks for S.C. category was 160 marks. Total marks of papers III and IV in final written test are taken into account for preparing merit list and consequential provisional selection. Insofar as papers I and II of

final written test are concerned, the candidate is expected to secure minimum pass marks. Pass marks for an S.C. candidate are 30%. Petitioner did not secure pass marks in paper I of final written test.

6. It is pertinent to mention here that, previously, petitioner filed O.A.No.836 of 2017 before the Tribunal for calling answer sheet of paper I in final written test and to consider his case for appointment. Subsequently, he withdrew O.A.No.836 of 2017 on 18.04.2017 since there was press release dated 09.03.2017 from the Recruitment Board for providing scanned copy of answer script for both descriptive papers, i.e., papers I and II to those candidates who applied for verification of those papers along with details of marks given.

7. It is not dispute that, originally, petitioner was awarded 28.50 marks in paper I. With regard to marks obtained by the petitioner in other papers, it is relevant herein, since the dispute is only with regard to marks obtained in paper I. Since the petitioner secured 28.50 marks in paper I, result of the petitioner was declared as not qualified. Petitioner applied for recounting/revaluation of paper I by paying requisite fee on 08.03.2017. Petitioner received message from the 2nd respondent/State Level Police Recruitment Board on 22.03.2017 stating that his request on paper I was considered and his result is changed to 29.5 marks in paper I and consequently, not qualified for selection. Change of marks after re-verification was due to wrong totaling of paper I valuation.

8. It is argued by learned counsel for the petitioner that evaluation procedure is not in accordance with classic method of moderation suggested by the Supreme Court in the manner as prescribed in *Sanjay Singh v. U.P. Public Service Commission*¹.

9. We note, in the aforesaid case, the Supreme Court has observed that the procedure of moderation would bring in considerable uniformity and consistency. The Supreme Court was considering a case relating to recruitment into Subordinate Judiciary by UPPSC. It has to be noted that, in the case before the Supreme Court, there was only single valuation of each paper by a single examiner. It was not a case of two valuations separately made by two examiners and taking average of the two evaluations as the marks secured by the candidate in that paper. Therefore, the Supreme Court laid down principles for arriving at uniformity and consistency. The said principles laid down by the Supreme Court may not be applied to the present case of police recruitment in Andhra Pradesh where just and fair method was adopted in evaluating descriptive papers in the final written test. It is also provided in the present recruitment that in case there is difference of more than 10% of total marks given by two examiners, then necessarily such paper has to be revalued by a third examiner. The said method undoubtedly curbs arbitrary valuation of papers by the examiners since both the examiners will not be aware of marks awarded by the other examiner.

¹ (2007) 3 SCC 720

10. Learned counsel for the petitioner argued on the last date of hearing that the marks awarded by the first examiner is in the knowledge of the second examiner, therefore, the method of examining by second examiner is nothing but an eyewash.

11. Learned Govt. Pleader appearing on behalf of the respondents has produced the evaluation sheet which shows that the evaluation was independent and separate and the marks awarded by the first examiner were not before the second examiner, therefore, we cannot find fault in the evaluation procedure. The answer script does not contain marks awarded by both examiners. Each examiner's marks of a particular paper are entered in separate marks sheet by each examiner; therefore, there will not be any occasion for one examiner to have a glance at the marks awarded by the other examiner for that paper.

12. In view of the above, we find no perversity and illegality in the order passed by the learned Tribunal.

13. Finding no merit in the present writ petition, the same is accordingly dismissed. No order as to costs.

As a sequel, miscellaneous petitions, if any pending, shall stand closed.

SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

February 16, 2018
MRR