

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
CIVIL WRIT JURISDICTION
W.P.(S) No. 3398 of 2019**

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Santosh Kumar, s/o Bhagwat Narayan Jha, at present r/o Road no. 9 Vidyanagar, near Karam Chowk, P.O.- Harmu, P.S.- Sukhdev Nagar, District- Ranchi, Jharkhand, PIN-834002.

..... **Petitioner**

Versus

1. The Union of India through the Chairman, Railway Board, having its office at Rail Bhawan, Raisina Road, Rajpath Area, Central Secretariat, P.O.- Rail Bhawan, P.S. Sansad Marg, New Delhi, Pin Code- 110001.
2. The Zonal Manager, East Central Railway, Hajipur, P.O. + P.S. Hajipur, District- Hajipur, Bihar, Pin-844101
3. The Secretary, Railway Recruitment Board, Patna under East Central Railway, having its office at Mahendru Ghat, P.O. + P.S. Mahendru Ghat, Patna, Pin Code-800004.
4. The Chairman, Railway Recruitment Board, Patna under East Central Railway, having its office at Mahendru Ghat, P.O. + P.S.- Mahendru Ghat, Patna, Pin Code-800004.

..... **Respondents**

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**CORAM: HON'BLE MR. JUSTICE APARESH KUMAR SINGH
HON'BLE MR. JUSTICE KAILASH PRASAD DEO**

For the Petitioner	:Mr. Manoj Kr. Choubey, Advocate
	:Mr. Krishna Prajapati, Advocate
For the Respondent	:Mr. Gautam Rakesh, Advocate

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03/26.09.2019 Heard, learned counsel for the writ petitioner and the respondent Railways.

The petitioner, a candidate for appointment to the post of Group D (Level-1) under Advertisement No. 2/18 conducted by the Railway Recruitment Board became aggrieved because of his non-selection and approached the learned Central Administrative Tribunal, Circuit Bench at Ranchi in O.A. No. 051/00485/2019.

According to the applicant/writ petitioner, in the examination paper seven questions did not have correct answers. Therefore, he filed an online objection on 19.01.2019.

R.R.B. did rectify one of the answers on the basis of his objection but regarding remaining six there was no communication. Learned Central Administrative Tribunal took note of the stand of the parties and held as under:

“2. We have gone through the applicant's objections regarding those six questions (at page 73 to 76 of the OA). We find that the objections raised by the applicant are prima facie incorrect. Except question no. 29 (at page 73 of the OA), where the correct answer happens to have, what appears to be, a typographical error, there is apparently no error in the answers to the remaining five questions. Thus, even if the applicant's request was to be accepted, this would not make a difference of more than one or two marks to his score of 72.67. Since the applicant is about five marks short from the cut off marks of 77

(for the UR candidate at Annexure 6 of the OA) there will be no change in the result even if further correction in the answer sheet was to be made. The OA, thus, apparently lacks merit and is, therefore, dismissed at the admission stage itself.”

As per the circular at Annexure-3 CEN 02/2018 (Level 1 Posts), the time schedule prescribed for different activities are as under:

Time Schedule

<i>S.No.</i>	<i>Activity</i>	<i>Date and Time</i>
1	<i>Viewing of the Question Paper, Responses and Keys (The option selected by the candidates will be visible along with and option treated as correct with green tick mark).</i>	<i>11-01-2019, 2200hrs onwards</i>
2	<i>Raising of objections against the Questions, Options and Keys and online fee payment</i>	<i>14-01-2019, 1700hrs onwards</i>
3	<i>Closing of the Objection raising and payment window</i>	<i>19-01-2019 at 2359 hrs</i>

Petitioner filed his online objection on 19.01.2019. During course of submission a point was sought to be made on behalf of the petitioner that before the online objections were actually scrutinized the key answers were uploaded. It did contain correction of one answer which the writ petitioner has also pointed out but six remaining questions remained uncorrected. The learned C.A.T. evaluated the correctness of remaining six answers and at para-2 of the impugned order opined that there is no error in the answers to the remaining five questions except question no. 29. Even if adding the marks of those answers to the petitioner's score of 72.67 it could make no difference to the final outcome since petitioner was 5 marks short from the cut off marks of 77 for unreserved category as per annexure-6.

It is the contention of the petitioner that proper evaluation has neither been done by the Railways nor objections submitted by the applicant online upon the invitation of the R.R.B. have been scrutinized correctly by the expert committee/examining body. It is contended that petitioner with all sense of responsibility and knowledge emphatically asserts that remaining five answers were also incorrect. Therefore, this court should direct re-evaluation of the answer sheet of the petitioner and revision of his result upon such re-evaluation otherwise he would suffer irreparably due to improper and arbitrary evaluation of the answers.

Learned counsel for the Railways has firmly opposed the prayer. He submits that as per the scheme of the R.R.B. and the advertisement in question objections have been invited from appearing candidates online. Petitioner has also submitted his online objection and the key answers loaded thereafter on the Website are the

final answers after due scrutiny of objections by the expert body/examining body. In exercise of writ jurisdiction, recourse to evaluation of answers in an examination is impermissible as held by the Apex Court in the case of ***Ran Vijay Singh & Ors vs. State of Uttar Pradesh & Ors.*** as reported in ***(2018) 2 SCC 357***; para-30 and 31 thereof. Learned counsel for the Railways has also pointed out to the categorical statement made by the writ petitioner at para-13 of the memo of appeal which removes any doubt that the master key was uploaded after scrutiny of the objections from candidates. As per the writ petitioner also, the master answer key was uploaded after scrutiny of the objections from candidates. It is submitted that the recourse suggested by the writ petitioner is unknown to the exercise of power under article 226 of the Constitution of India.

We have considered the submissions of learned counsel for the petitioner and the respondent-Railways, attendant relevant material facts from the pleadings and documents on record and also gone through the impugned order.

The legal question which arises herein is regarding the scope of exercise of powers under Article 226 of the Constitution of India in such a context. We are illuminated by the pronouncement of law rendered by the Apex Court in the case ***Ran Vijay Singh (supra)***. Para-30 and 31 of the report is quoted hereunder as they are complete answer to the legal issue at hand:

“30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are: (i) If a statute, Rule or Regulation governing an examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit it; (ii) If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the Court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any “inferential process of reasoning or by a process of rationalisation” and only in rare or exceptional cases that a material error has been committed; (iii) The Court should not at all re-evaluate or scrutinize the answer sheets of a candidate – it has no expertise in the matter and academic matters are best left to academics; (iv) The Court should presume the correctness of the key answers and proceed on that assumption; and (v) In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.

31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse – exclude the suspect or offending question.”

In the facts of the present case, petitioner contended that the master key was uploaded before scrutiny of the objection by the expert body even though such objections were invited online and submitted by the petitioner. This contention of the petitioner stands refuted by his own assertion made at para-13 of the memo of appeal. The relevant extract whereof is quoted hereunder:

“13. ... The reason for above assertion is based upon the master answer key issued by the respondent authorities after scrutiny of the objection from candidates. As per the master key one answer has been rectified by the railway board”

It is apparent from the facts noted above that key master answer were uploaded after scrutiny of the objections submitted by the candidates by the Railway Recruitment Board. Out of the seven answers to which the petitioner objected only one was rectified as per the decision of the examining body which has aggrieved the petitioner. As a Court exercising power under Article 226 of the Constitution of India, we should not re-evaluate or scrutinize the answer sheets as expertise in such academic matters should be best left to academics. The Court should presume the correctness of the key answers and proceed on that assumption and in the event of a doubt the benefit should go to the examining authority rather than the candidate. Sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible.

On consideration of the facts and circumstances noted above and the principles of law laid down by the Apex court, we are afraid that any interference in such matter is fraught with risk.

As such, we find no reason to interfere in the matter.

Writ petition is devoid of merit.

It is accordingly dismissed.

(Aparesh Kumar Singh, J.)

(Kailash Prasad Deo, J.)