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13.12.2021.  
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**In The High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side**

**W.P.A 33386 of 2014  
(Via Video Conference)**

**Surajit Goswami  
-versus  
State of West Bengal & Ors.**

**Mr. Sudipta Dasgupta,  
Mr. Bikram Banerjee,  
Mr. Ankadeb Biswas,  
Mr. Arka Nandi,  
Mr. Sutirtha Nayek.  
...For the Petitioner.**

**Dr. Sutanu Patra,  
Ms. Supriya Dubey.  
...For SSC.**

Affidavit-in-opposition and the reply filed in Court today are taken on record.

The petitioner appeared in the 12<sup>th</sup> RLST in the subject Physical Education for being appointed as Assistant Teacher in Classes 6 to 8.

According to the petitioner, he was not awarded marks even though he answered the question correctly.

The petitioner obtained photocopy of his answer scripts wherefrom it appears that the question No. 7 was - give the formula for measuring the vital capacity for men.

The petitioner refers to a document from a book published by Sharir Shiksha Prakashani and the

answer referred to in the said book is the same as the answer written by the petitioner in his answer script.

The petitioner submits that question No.7 carried 2 marks and if the said 2 marks is awarded to him, then the total marks obtained by him will rise from 64 to 66.

It has further been submitted that the last empanelled candidate secured 65 marks. If the petitioner is awarded two extra marks for question No.7, then he will get a chance for selection for being appointed in the post in question.

The learned advocate representing the respondent School Service Commission submits that the aforesaid examination was conducted in the year 2011. The selection process is long over. Fresh selection processes were conducted thereafter and those are also over. At this stage, there is hardly any chance to provide a relief to the petitioner.

It has also been submitted by the Commission that there is no provision in law for reassessment or reexamination of the answer scripts.

It appears from the submissions made on behalf of both the parties and the documents relied upon by them that the answer given by the petitioner to the question No.7 is the same as appearing in the reference book which has been annexed to the writ petition.

If a candidate has been wrongly marked, then the question of reexamination does not arise. A mere glance at the question, the answer given by the examinee and the answer given in the reference book shows that the

answer given by the petitioner is the same as appearing in the reference book. The petitioner ought to have been awarded marks in respect of the said question.

In view of the above, the matter is remanded to the respondent No.3, the Chairman of the West Bengal Central School Service Commission to take a decision with regard to awarding marks to the petitioner in respect of the question No.7 vis-à-vis the answer mentioned in the reference book annexed by the petitioner to the writ petition. It will be open for the Chairman to take assistance of an expert, if required.

If the Chairman is of the opinion that extra two marks may be awarded to the petitioner and if after awarding the extra marks, the petitioner is entitled to be called for interview, then necessary steps shall be taken by the said authority.

The Chairman shall take a decision in the matter at the earliest, but positively within a period of six weeks from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

If the petitioner is successful in the interview, then necessary consequential steps shall be taken by the Commission strictly in accordance with law.

The petitioner is directed to forward a copy of the writ petition along with all annexures to the aforesaid respondent at the time of communicating the order of the Court.

W.P.A. 33386 of 2014 stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

**( Amrita Sinha, J.)**