

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 2735 of 2021**

Vikas Markam S/o Shri Sant Ram Markam Aged About 26 Years R/o Nagar Panchayat Bodari, Ward No. 6, Bilaspur Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Urban Administration, Mahanadi Bhawan, Atal Nagar, New Raipur, District Raipur Chhattisgarh.
2. Chhattisgarh Public Service Commission Through Its Secretary, District Raipur Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Sushil Dubey, Advocate
For State	:	Mr. Jitendra Pali, Dy. A.G.
For Respondent No.2	:	Mr. Anand Mohan Tiwari, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****22/06/2021**

1. The challenge in the present writ petition is the revised amended answers published by the respondent No.2 on 14.03.2021.
2. The facts of the case in brief is that the petitioner had participated in the preliminary examination conducted by the respondent No.2 for the State Services Examination, 2020 held on 14.02.2020. The model answer was published on 15.02.2021.
3. According to the petitioner, there were certain questions of which the answers which were published were that which the petitioner had opted and they were correct, however while passing the final amended answers, the authorities (i.e. particularly the respondent No.2) have

changed those answers. The final answers were published on 14.03.2021.

4. Mr. Anand Mohan Tiwari, the learned counsel for the respondent No.2-PSC submits that it is a case where after the model answer was published, large number of objections were received from various candidates, which included the questions, which are being referred by the petitioner herein and which were subjected to scrutiny by a team of experts constituted by the PSC and it is only after a thorough scrutiny by the team of experts that the final answers were published, therefore there is hardly any scope of interference left for this Court.
5. The counsel for the PSC relied upon a recent decision of this Court rendered in WPS No. 2503/2021 (Gajendrapal v. Chhattisgarh Public Service Commission & others) decided on 17.06.2021, wherein under similar circumstances, the writ petition was dismissed.
6. Having heard the contentions put forth on either side and on perusal of record, admittedly the model answer was published by the Department on 15.02.2021 reserving the right of the candidates to submit their objections, if any, to the options provided. Subsequent to the objection received, the PSC placed all those objections before a team of experts and the team of experts after due consideration of the same have finally published the amended answers on 14.03.2021.
7. It would be relevant at this juncture to take note of the judgment of the Division Bench of this Court in W.A. No. 165/2020 (Umang Gauraha v. State of Chhattisgarh & others) decided on 10.12.2020 being decided

along with a bunch of other similar writ appeals wherein in paragraph

Nos. 17 to 20 the Hon'ble Division Bench has held as under:

“17. It is settled law that the Constitutional Courts must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answer, as the Judges are not Experts in every field to decide the issue either one way or the other. The matter can be dealt with only by the Experts in the field and judicial scrutiny can only be to the limited extent, to see whether proper course of action has been pursued by the agency conducting the selection or whether the final answers given are palpably wrong as discernible from the face of it, without going for any research.

18. The issue had come up for consideration before the Apex Court in Ran Vijay Singh (supra) where the fundamental principles were laid down in crystal clear terms as discernible from paragraphs-30 to 32, which are extracted below for easy reference :

“30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are:

30.1. 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;

30.2. 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 reevaluation or scrutiny only if it is demonstrated very clearly, without any “inferential process of reasoning or by a process of rationalization” and only in rare or exceptional cases that a material error has been committed;

30.3. 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;

30.4. The Court should presume the correctness of the key answers and proceed on that assumption; and

30.5. 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 reevaluation 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.

32. It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is interference by the Courts in the result of examinations. This places the examination authorities in an unenviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. The enormity of the task might reveal some lapse at a later stage, but the Court must consider the internal checks and balances put in place by the examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a classic example of the consequence of such interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination – whether they have passed or not; whether their result will be approved or disapproved by the Court; whether they will get admission in a college or University or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers."

19. As observed in paragraph-30.5, the Apex Court alerted all concerned that in the event of a doubt, the benefit should go to the examination authority rather than to the candidate. This being the position, even if it is to be held that the Writ Petitioners have referred to some literature in their hand to support their answers, that by itself is not sufficient to hold that the Expert opinion relied on by the Respondent- Board is bad in all respects or to be ignored. The observations made by the Apex Court in Ran Vijay Singh (supra) were adverted to in the subsequent decision in Uttar Pradesh Public Service Commission (supra). It was reiterated in the said judgment (paragraph-12) that the law is well settled that the onus is on the candidate to not only demonstrate that the key answer is incorrect but also that it is a glaring mistake which is totally apparent and no inferential process or reasoning is required to show that the key answer is wrong. It was simultaneously observed that the Constitutional Courts must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answer. The Apex Court then held in paragraph-14 that if there are conflicting views, then the Court must bow down to the opinion of the Experts, Judges are not and cannot be Experts in all fields and, therefore, they must exercise great restraint and should not overstep their jurisdiction to upset the opinion of the Experts.

20. **When the Writ Petitioners seek to rely on the decision rendered by the Apex Court in *Guru Nanak Dev University v. Saumil Garg and Others* reported in (2005) 13 SCC 749 (paragraph-12) seeking to revisit the final answer key, it is discernible from the declaration made by the Apex Court in 'paragraph-9' of the same verdict that, insofar as the key answers are concerned, the benefit of doubt, as per the law well settled by the Apex Court, has to go in favour of the examining body. Similarly, we are of the view that the verdict passed by the Apex Court in *Richal and Others v. Rajasthan Public Service Commission and Others* reported in (2018) 8 SCC 81 (paragraph-20) sought to be relied on by the Petitioners to cause reappraisal of the key answer by another Expert Committee does not come to their rescue, as the inference made therein is for the reasons as discussed on specific facts; simultaneously alerting that the scope of judicial review in such matters is very limited."**
8. Taking note of the aforesaid judgment of the Division Bench, this Court on 17.06.2021 in WPS No. 2503/2021 (*Gajendrapal v. Chhattisgarh Public Service Commission & others*) also relied upon the aforesaid judgment of the Division Bench, which in turn was on the basis of a couple of judgments of the Hon'ble Supreme Court dismissed the writ petition. In the instant case also as per the instructions received by the State Public Service Commission, the 5 questions referred to by the petitioner herein i.e. questions No. 8, 21, 38, 70 & 87 in set-A, the answers have been corrected on the basis of the findings given by the team of experts. As such the judgment of the Division Bench in the case of "Umang Gauraha" fairly applies to the facts of the present case, so far as the final answers being published after due scrutiny by a team of experts.
 9. In view of the aforesaid factual matrix of the case and also in the light of the judgment of the Division Bench in the case of "Umang Gauraha" (supra) and also the order passed by this Court in the case of

“Gajendrapal” (supra), the writ petition sans merit and deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved