

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 2503 of 2021**

Gajendrapal S/o Subhash Diri, Aged About 26 Years R/o Village Khunta,
Post Bhereva (Puran), P.S. Kunda, Tehsil Pandariya, District Kabirdham
Chhattisgarh

---- Petitioner**Versus**

1. Chhattisgarh Public Service Commission Through The Secretary, Shankar Nagar, Raipur Chhattisgarh
2. State Of Chhattisgarh Through The Secretary, General Administration Department, Mantralaya, Naya Raipur, District Raipur Chhattisgarh
3. Examination Controller, Chhattisgarh Public Service Commission Shankar Nagar Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Akhilesh Mishra, Advocate
For State	:	Mr. Amrito Das, Addl. AG
For PSC	:	Mr. Anand Mohan Tiwari, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

17/06/2021

1. Challenge in the present writ petition is to the revised amended answers published by the respondent no.3 vide Annexure P-1 dated 14.03.2021.
2. The issue involved in the case revolves around the preliminary examination conducted by the Chhattisgarh Public Service Commission on 14.02.2021. The model answers to the said examination were published on 15.02.2021. While publishing the modal answers objections were called from the candidates to be submitted online. The last date of submission

of objections being 22.02.2021. The petitioner herein at that point of time did not raise any objection to any of the answers pointed out in the model answers. However, pursuant to the objections received by the CGPSC from the other candidates the commission referred the matter to a team of experts to deal with the respective objections. Subsequently, on due scrutiny of the objections received from the various candidates, the Committee scrutinized all the objections and finally the revised answers were published on 14.03.2021 and it is thereafter now that petitioner has filed the present writ petition questioning the revised answers reflected in the model answers.

3. According to the petitioner he has objections in respect of the finding given in the revised answers so far as question no.20, 48, 53 & 58 from SET-B which was attended by the petitioner. So far as question no.20 of Set-B is concerned, the model answers shows correct answer to be 'B' whereas in the revised amended answer the correct option shown is option D. So far as question no. 48 is concerned, there was no change both to the correct option given in the model answer as also in the option given in the final answer. So far as question no.53 is concerned as per SET-B the model answer reflected correct answer to be option D whereas in the course of publication of revised amended answer the authorities had deleted the said question. Likewise, as regards question no.58 of SET-B is concerned, the correct answer as per the model answer was option C whereas as per revised amended answer the correct option was shown to be 'A'.
4. Learned counsel appearing for the CGPSC submits that he had already filed his objections to the writ petition and according to the learned counsel for the PSC after the model answers were published objections were called in the department on receiving these objections constituted a Committee of experts who had thoroughly verified the objections and thereafter after due consideration and deliberations the revised answer

was published. It was the contention of the counsel for the PSC that in the instant case the petitioner in fact has not submitted any objections whatsoever to any of the questions and answers published by way of model answers on 15.02.2021. In the absence of any objections raised by the petitioner at the first instance, the authorities could not have considered the contentions which the petitioner now intends to raise after the revised and final answer is published.

5. The Division Bench of this High Court while deciding a Bunch of Writ Appeals, the leading Writ Appeal being 165/2020 in the case of **Umang Gauraha Vs. State of Chhattigarh and others** decided on 10.12.2020 in paragraph 17, 18, 19, 20 had 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 re-evaluation 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 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.*

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.

6. In view of the decision of the Division Bench in the aforesaid writ appeal of **Umang Gauraha**(Supra) and also taking note of the judgment of the Supreme Court referred to in the judgement of the Division Bench, this Court has no hesitation in reaching to the conclusion that in the given factual backdrop there would hardly be any scope for interference left by this Court. Firstly, on the ground that petitioner at the first instance did not raise any objections when the model answers were published and

secondly because these questions have been decided considering the objections which were received from the other candidates by a team of experts constituted by the commission.

7. The writ petition Sans-merits and for the given reasons the same deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Rohit