

19.09.2022

Court No.32
rpan/05

MAT 1856 of 2016

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IA No.: CAN 1 of 2022 [Section 5]

Ankrit Mukherjee

- Versus -

The State of West Bengal & Others

Mr. Ayan Banerjee,
Mr. Soumo Chaudhury
... for the Appellant.

Mr. Raja Saha,
Mr. Prantik Gorai
... For the State.

Mr. Siddhartha Banerjee,
Mr. Sudipta Nayan Ghosh
... for the High Court Admn./
Respondent Nos.3 & 4.

Ms. Shraboni Sarkar
... for the PSC/Respondent Nos.5-8.

The present appeal was preferred challenging an order dated 13th July, 2016 passed in a writ petition, being W.P. 12170 (W) of 2016.

As we had invited the appellant to argue on merits, the delay in preferring the appeal is condoned and the application being CAN 1 of 2022 is disposed of. The affidavits exchanged by the parties, be kept on record.

The writ petitioner/appellant applied and appeared in the West Bengal Judicial Service Examination, 2015. He preferred the writ petition alleging *inter alia* that the answers given by him to question nos.1(b), 4(a) and 4(b) in the subject '*Transfer of Property Act*' had been struck off and had not been properly assessed. The writ petition was, however, dismissed due to absence of regulation providing for re-evaluation of answer scripts.

In course of hearing of the appeal, we called for the original answer script from the Public Service Commission (in short, PSC). Upon perusal of the answer script, we found that the colour of the ink by which the answers were struck off matches with the ink of the pen used by the concerned examiner and as such by an order dated 4th August, 2022, we requested the Chairman of the PSC to appoint an examiner afresh for assessment and examination of the answers given by the appellant to the questions as referred to hereinabove.

Pursuant to such direction, a new examiner was appointed and he assessed the answers to the questions, as referred to hereinabove and filed a report before this Court. In the report it has *inter alia* been observed that *'the candidate has missed to mention the essentials required for answering the said questions and sometimes mentioned totally irrelevant points which have got no nexus with the questions and also ambiguous'*.

Mr. Chaudhury, learned advocate appearing for the appellant submits that the new examiner had also not properly assessed the answers given by the appellant and he prays for appointment of a further examiner.

Mr. Banerjee, learned advocate appearing for the respondent nos.3 and 4 denies and disputes the contention of the appellant and submits that the appellant did not come within the zone of consideration for appointment on the basis of the marks obtained by

him. There is no rule or regulation permitting re-evaluation of answer scripts.

Ms. Sarkar, learned advocate appearing for the PSC / respondent nos.5-8 submits that the PSC authorities have duly complied with earlier direction of this Court.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

The examiner appointed by an order in appeal duly assessed the answers and even after such assessment there had been no enhancement of marks.

In view thereof, no further interference is called for in the present appeal.

The appeal, being MAT 1856 of 2016, is dismissed.

There shall, however, be no order as to costs.

The original answer script and the original report of the examiner dated 8th September, 2022 have been returned to Ms. Sarkar. Let a xerox copy of the said report be kept with the record.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)