

IN THE HIGH COURT OF ORISSA AT CUTTACK
WA No. 292 of 2022

Usharani Mishra

....

Appellant

Mr. Manoj Kumar Mohanty, Advocate

-versus-

State of Odisha & Others

....

Respondents

Mr. M.K. Khuntia, AGA

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
09.05.2022

Order No.

- 02.**
- 1.** This matter is taken up by virtual/physical mode.
 - 2.** The present intra-Court appeal is directed against the order dated 9th February, 2022 passed by the learned Single Judge.

The Petitioner was an aspirant for appointment against the solitary post of Pharmacist advertised for the general category (women) in the district of Gajapati as per the advertisement dated 28th December, 2020 issued by the Odisha Sub-ordinate Staff Selection Commission, Bhubaneswar. She was declared unsuccessful having secured 43.25 marks and two other lady candidates having identical marks but owing to being senior in age, were placed higher in merit than the Petitioner. The Appellant filed a writ petition with the allegation that the Petitioner has not been awarded one mark for question No.93 in the objective assessment

test on the strength of the carbon copy of attempted answers in the OMR sheet in her possession, which is permissible to be retained.

3. It was claimed that if one mark for question No.93 is awarded and negative marking of 0.25 is removed, the Petitioner would steal a march over the selected candidate against the said post in the said category stated to have got identical marks of 43.25 (but granted the appointment because being senior in age).

4. The learned Single Judge has dismissed the writ petition with regard to the claim of revision of the mark being not provided by any regulation or instruction issued by the Staff Selection Commission. This Court to cross-check the averment of incorrect marking for question No.93 had directed the production of the OMR sheet of the Petitioner along with the correct answer keys adopted by the Board.

5. At the time of hearing, the relevant record has been produced in Court, we have examined the same and also shown it to the counsel for the Appellant. We find that apart from the darkened circle in question No.93 in option 'A', a pencil mark in dark appears in option 'B' as well. Therefore, it is perfectly possible for the computer while scanning the OMR sheet to have discarded the answer to the question No.93 as incorrect for containing pencil marking in two options. We further find that apart from Snehalata Jena as noticed by learned Single Judge, there is another candidate by the name of Susmita Swain, who is higher in the merit than the Petitioner.

6. In view of the above, we find no grounds for entertaining the present appeal.

7. Accordingly, the Appeal is dismissed

The relevant record be returned back.

Issue urgent certified copy as per rules.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Laxmikant

May 9, 2022 Cuttack

