

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Misc. Civil Application No.384 of 2021

In

Writ Petition No.937 of 2020 (D)

Ashish Hemantrao Badwaik

Versus

Western Coal Fields Limited,
through its Chairman-cum-Managing Director and others

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri M.M. Sudame, Advocate for Applicant/Petitioner.
Shri Onkar Ghare, Advocate for Respondent Nos.1 and 3.

CORAM : **SUNIL B. SHUKRE &
ANIL L. PANSARE, JJ.**
DATE : 24th JANUARY, 2022

1. Heard.

2. It is seen that the examination at which the petitioner had appeared, as a part of process for selection for appointment of 'Mining Sirdar', was objective and, therefore, the evaluation of the answer-sheet was mechanical and that the mechanical evaluation of the answer sheet was entirely governed by the Model Answers already fixed by the respondents. It is further seen that there were some errors in fixing the Model Answers to some of the questions put to the candidates in the examination.

3. It is the contention of Shri Sudame, learned counsel for the petitioner, that the petitioner had rightly answered Question Nos.34, 43, 72 and 81, but because of the errors in the Model Answers, the correct answers of the petitioners were evaluated as wrong answers and, therefore, no marks whatsoever were allotted to the petitioner for these four questions. It is further submitted that if these four marks had been allotted to the petitioner, his total marks would have been 85, which are four marks above the cut-off marks of 81.

4. On going through the Model Answers and the documents placed on record, some of which are of the respondents themselves, we find that there is great substance in the argument of the learned counsel for the petitioner. The right answers, which ought to have been assessed as correct and allotted appropriate marks, have been evaluated as incorrect and zero marks have been allotted. This was when the answer-sheet evaluation was mechanical and no human element was involved. These aspects of the matter have not been considered by the Court while dismissing the petition. Had these aspects been considered, there was a possibility of the result of the petitioner being different and it is because of this fact that the prejudice has caused to the petitioner.

5. In the result, we are of the view that a case has been made out by the petitioner for review of the order dismissing Writ Petition No.937 of 2020 on 18-2-2020. Hence, the review application is allowed. The order dated 18-2-2020 is reviewed and recalled and it is directed

that the petition be listed before the Bench taking up the regular assignments. No costs.

JUDGE

JUDGE

Lanjewar