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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 08th February, 2023*

+ **W.P.(C) 1472/2023 & CM APPL. 5510/2023**

ANIL KUMAR

..... Petitioner

Through: Mr. Ranjit Kumar Sharma,
Adv.

versus

HIGH COURT OF DELHI

..... Respondent

Through: Mr. Gautam Narayan,
ASC

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE AMIT MAHAJAN

VIBHU BAKHRU, J.

1. The petitioner has filed the present petition, *inter alia*, praying that the respondent be directed to re-evaluate the petitioner's answer sheet of Paper-I in General Knowledge and Language of the Delhi Higher Judicial Service (Mains) Examination, 2022.

2. The Establishment of this Court had issued an advertisement on 23.02.2022 inviting online applications for the Delhi Higher Judicial Services Examination-2022, for filling up forty-five vacancies/anticipated vacancies (including thirty-two vacancies in the General category) in the Delhi Higher Judicial Services Examination-2022.

3. The Delhi Higher Judicial Services Examination-2022 examination consisted of three successive stages. The first being

an objective examination (preliminary). Those qualifying the preliminary examination would be admitted to the Delhi Higher Judicial Services (Mains) Examination 2022, and those who qualified the said examination would be eligible to appear for an interview and viva-voce.

4. The petitioner had qualified the preliminary examination but was unsuccessful in clearing the Delhi Higher Judicial Services (Mains) Examination 2022, which required the petitioner to obtain at least 45% marks in each paper and 50% marks in aggregate.

5. Whilst the petitioner's aggregate marks were in excess of 50%, his marks in Paper-I (General Knowledge and Language), were below the threshold by 0.5 marks. He had scored 67 marks out of a maximum of 150 marks, whereas he required 67.5 marks to meet the threshold qualifying criteria of 45%.

6. In the given circumstances, being aggrieved by the results, the petitioner filed a writ petition before the Hon'ble Supreme Court [*W.P.(C) 739/2022* captioned *Anil Kumar v. High Court of Delhi*]. It is relevant to note that one of the grounds urged by the petitioner was that the marks awarded in Paper-I (General Knowledge and Language), required moderation. The petitioner claimed that he was expecting 79 marks in Paper-I but had been awarded 67 marks. Accordingly, he sought that the answer sheet be re-evaluated.

7. The Hon'ble Supreme Court did not accede to the said prayer and rejected the writ petition by an order dated 16.09.2022.

8. Thereafter, the petitioner filed a writ petition before this Court, being *W.P.(C) 14252/2022* captioned *Anil Kumar v. High*

Court of Delhi, seeking that the marks awarded to him ought to be rounded off. It is the petitioner's case that if his marks were rounded off, then he would meet the threshold criteria. The said petition was dismissed by this Court as this Court found that the petitioner's request for rounding off would run in teeth of Paragraph XIII of Appendix to the Delhi Higher Judicial Service Rules, 1970, which expressly proscribes rounding off of marks.

9. Notwithstanding that the petitioner's prayers for re-evaluation and for enhancement of his marks by rounding off were rejected, the Establishment of this Court considered the hardship faced by the petitioner and two other candidates, who had similarly not qualified the Delhi Higher Judicial Service (Mains) Examination for want of a single mark (or less) and decided to award 0.5 mark in General Knowledge in Paper-I and one mark in Law Paper-III to all candidates who had appeared in the Delhi Higher Judicial Service (Mains) Examination, 2022.

10. By virtue of the said concession, the petitioner qualified for the Delhi Higher Judicial Service (Mains) Examination and was admitted to viva-voce.

11. The Delhi Higher Judicial Services Examination-2022 results were declared on 10.11.2022. The petitioner has been placed at Serial No. 40 in the merit list.

12. Given that the number of vacancies are thirty-two (including two anticipated vacancies in the General category), the petitioner has not been selected for appointment to the Delhi Higher Judicial Services.

13. The learned counsel for the petitioner states that he is particularly dissatisfied by the marking done in Question No.2, where he has been awarded only 16 marks out of a maximum of

40 marks.

14. As stated above, the petitioner's grievance is regarding re-evaluation and rounding off of marks, which had been considered and rejected. Notwithstanding the same, the petitioner has once again approached this Court, taking cue from a decision by a Coordinate Bench of this Court in ***Ravinder Singh v. Registrar General High Court of Delhi : W.P.(C) 434/2023***, decided on ***13.01.2023***.

15. In that case, this Court had directed that answer to Question No. 9 of Law Paper-I of the petitioner in that case (Ravinder Singh) – who was one of the unsuccessful candidates in Delhi Higher Judicial Service (Mains) Examination – be re-evaluated by another examiner.

16. It is relevant to note that this Court has in ***Mayank Garg v. Delhi High Court through its Registrar General: 2022/DHC/00358*** decided on 12.09.2022, rejected the prayers of the petitioners for re-evaluation of the Delhi Higher Judicial Service (Mains) Examination. This court had observed that it “is unable to accept that there is any manifest error in the marking system or any systemic [*sic* systematic] failure” of the examination/selection scheme and therefore it was not permissible to direct re-evaluation of the answer sheets.

17. In ***Subhash Chand vs High Court of Delhi:2019 SCC OnLine (Del) 8132***, a Co-ordinate Bench of this Court has referred to the decisions of the Supreme Court in ***Board of Secondary Education v Pravas Ranjan Panda: (2004) 13 SCC 383***; ***Himachal Pradesh Publis Services Commission v Mukesh Thakur:(2010) 6 SCC759***; and ***Central Board of Secondary Education v Khushboo Shrivastava: (2014) 14 SCC 523*** and

observed that “*a long line of authority lays down that no re-evaluation can be ordered by the court in absence of rules providing for the same*”

18. In ***Ran Vijay Singh & Ors. v. State of U.P.: (2018) 2 SCC 357***, the Hon’ble Supreme Court had taken note of several other prior decisions and had explained the law in respect of directing re-evaluation of answer-sheets in following words:

“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 rationalisation” 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 scrutinise 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.”

19. In the present case, Paragraph XII of the Appendix to the Delhi Higher Judicial Service Rules, 1970, expressly proscribes re-evaluation of answer sheets. The said Paragraph XII is set out below:

“XII RE-EVALUATION OF ANSWER SHEETS

There shall be no re-evaluation of answer sheets in respect of Preliminary Examination and Mains

Examination. No request for re-evaluation of answer sheets shall be entertained and the same shall be liable to be rejected without any notice to the candidates.”

20. This petition does not disclose any material error that would warrant re-evaluation of the answer sheet. More importantly, the applicable rule expressly proscribes re-evaluation of answer sheet and, therefore, no such order for re-evaluation of answer sheets can be passed.

21. In so far as the petitioner’s reliance on the order passed in *Ravinder Singh v. Registrar General High Court of Delhi* (*supra*) is concerned, it is seen that the said order is a short order of a few paragraphs which does not refer to authoritative decisions of the Hon’ble Supreme Court; prior decisions passed by this Court; or otherwise discusses the law on this subject. Thus, the same cannot be considered as an authority for the proposition that re-evaluation of the answer sheets is permissible in this case. This Court is also informed that the respondent has preferred a Special Leave Petition against the said decision.

22. In any view of the matter, the petition filed by the petitioner before the Supreme Court seeking similar relief has been dismissed. The petitioner is, thus, precluded from re-agitating the matter.

23. The petition is, accordingly, disposed of.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

FEBRUARY 8, 2023

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