

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.18 of 2022

In

Civil Writ Jurisdiction Case No.8212 of 2020

Navin Kumar Son of Sri Rameshwar Prasad, Resident of Village - Padrawan,
Post - Bhimpur Manjhiawan, P.S. - Konch, District - Gaya.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of General Administration, Government of Bihar, Patna.
2. The Bihar Public Service Commission, Through its Secretary, 15 Jawaharlal Nehru Marg, Bailey Road, Patna.
3. The Secretary, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, Bailey Road, Patna.
4. Joint Secretary - Cum - Examination Controller, Bihar Public Service Commission, 15 Jawarlal Nehru Marg, Bailey Road, Patna.
5. Branch Officer, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, Bailey Road, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjeeb Kumar Sanju, Advocate
For the Respondent/s : Mr. P.K. Shahi, Sr. Advocate
Mr. Sanjay Pandey, Advocate
Mr. Nishant Kumar Jha, Advocate
Mr. Suman Kumar Jha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-07-2024

The grievance projected is of the appellant not being called for the interview after the written examination of 60th to 62nd Combined Competitive Civil Services Examination held by the Bihar Public Service Commission (for brevity, BPSC). The admitted case is that the appellant was a BC



category candidate, and the cut-off mark was 584 for the BC category, to be called for the interview. The appellant secured only 582 marks. The appellant's contention is that for question no. 11, 26 marks awarded was later reduced to 24 marks and since there were two parts of question no. 11, while adding the marks for the first part and the second part, the marks earlier awarded of 26 was reduced to 24 without an initial. Insofar as the question no. 7 is concerned, the marks awarded of 7 was reduced to 6. If the appellant gets the 3 marks, then he would definitely get the cut-off mark, is the contention.

2. The learned Single Judge after looking at the decisions cited, especially relied on Prabhat Kumar v. The State of Bihar & Ors. in C.W.J.C. No. 1137 of 2014, wherein it had been stated that while reducing the marks on revaluation, the examiner should initial the same. Finding the initials having been given, the writ petition was dismissed.

3. Learned Counsel for the appellant, referred to a decision in L.P.A. No. 43 of 2020 of a coordinate Bench in Pankaj Kumar v. The Bihar Public Service Commission & Ors. in which the lack of initial was found to be prejudicing the petitioner.

4. The learned Senior Counsel Sri P.K. Shahi, who



appeared for the respondents, points out that there is no malafide alleged, and in any event, the Chief Examiner had added two marks with respect to one another question, which was omitted by reason of a mistake in addition by the original examiner. It is also submitted that the order in L.P.A. No. 43 of 2020 is an interim order and it is stayed by the Hon'ble Supreme Court.

5. We have gone through the copy of the answer papers as shown to us by the appellant. At question no. 7, the mark has been reduced from 7 to 6, with an initial therein. Insofar as question no. 11, admittedly there were two parts; for the first part, the appellant was given 26 marks, and for the second part 6 marks, which was added up and shown in the next page as $26+6=32$. On revaluation, the examiner had reduced the marks by 2 for the first part of question no. 11, where the marks awarded of 26 was reduced to 24 and an initial was put.

6. The absence of initial is only where the marks of the part one and part two were added, which we think is not very relevant.

7. We also take into account the fact that the selection is over and the appointments have been made. None of the candidates have been impleaded who would be prejudiced if



the appellant has to be considered as of now.

8. We do not find any parallel with **Pankaj Kumar** (supra), in which there was no initial of the examiner at all. The Hon'ble Supreme Court has, in a Special Leave to Appeal by the BPSC, stayed the order. The order produced before us is only an interim order, which cannot be treated as a precedent. We also find clear distinction from what has been observed in **Pankaj Kumar** (supra).

9. We dismiss the appeal affirming the judgment of the learned Single Judge.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

aditya/-

AFR/NAFR	
CAV DATE	
Uploading Date	25.07.2024.
Transmission Date	

