

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2676 OF 2024

Atul Baban Rupnavar	)	
Aged 30 years. Occ. Education,	)	
R/o. Bijawadi, Indapur,	)	
Dist. Pune.	)	.. Petitioner

Versus

1. State of Maharashtra	)	
Through its Secretary,	)	
Public Works Department	)	
Mantralaya, Mumbai	)	
2. The Chief Engineer	)	
of Public Work Regional Department, Mumbai	)	
having office at 4 th floor,	)	
Bandhkam Vibhag, 25, Marzbam Path,	)	
Fort, Mumbai.	)	
3. Tata Consultancy Services	)	
through its Chief Officer,	)	
Having its office at 9 th Floor,	)	
Nirmal Building, Nariman Point,	)	
Mumbai – 400 021.	)	.. Respondents

Mr.Nikhil N. Pawar a/w Mr.Sarvajit B. Patil for the petitioner.
 Ms.Kavita N. Solunke, AGP for respondent nos.1 &2-State.
 Mr.B.S. Shinde i/by Mr.Pandurang Gaikwad for respondent no.3.

**CORAM : A.S. CHANDURKAR &
JITENDRA JAIN, JJ.
DATE : 29th FEBRUARY 2024**

Judgment (Per Jitendra Jain, J.) :-

. Rule. Ms.Solunke, learned Assistant Government Pleader
 waives service of notice for respondent nos.1 and 2-State and Mr.Shinde,

learned counsel waives service of notice for respondent no.3. By consent of the parties, the Writ Petition is heard finally.

2. By this Writ Petition under Article 226 of the Constitution of India, the petitioner seeks to challenge the order dated 6th February 2023 passed by the Maharashtra Administrative Tribunal, Mumbai ('Tribunal') whereby the Original Application No.143 of 2024 filed by the petitioner along with 3 other candidates came to be dismissed.

3. Brief facts are as under :-

(i) Respondent no.2-Public Work Regional Department issued an advertisement for the post of Junior Engineer (Group 'B') to fill 532 vacancies. The examination for the said post was to be conducted by respondent no.3-Tata Consultancy Services.

(ii) The petitioner applied for the aforesaid post and appeared for examination conducted by respondent no.3. On 4th January 2024, the petitioner went through the response sheet and realised that there is some ambiguity in Question ID No.630680511689. The said question was as under :-

Form the options given below choose the Antonym (Opposite meaning) of word Alleviate.

1. Heighten
2. Relieve
3. Amend
4. Enhance

(iii) The petitioner had selected Option 4-“Enhance” as the correct answer whereas according to the respondents, the correct answer was Option 1- “Heighten”.

(iv) On 10th February 2024, respondent no.2 published the additional list of candidates and the petitioner was placed at Serial No.8 with the marks 163.01774 whereas the cut off for Open Category was closed at 163.89. The petitioner thereafter filed an OA with the Tribunal raising the grievance with respect to the aforesaid question and answer.

(v) On 6th February 2024, the OA filed by the petitioner and others came to be dismissed. It is on this backdrop that the petitioner is before this Court today.

4. The petitioner submits that as per Cambridge Dictionary, the correct answer is Option 4-“Enhance” and since this question was asked while attempting English paper, the respondents ought to have given marks for the said answer. The petitioner submits that if both Option 1 and Option 4 were the correct answers and the petitioner answered Option 4 then, the respondents ought to have given him the marks for the correct answer. The petitioner, therefore, submits that the respondents and the Tribunal is not justified in rejecting the contention of the petitioner.

5. Per contra, the respondents supported the order of the Tribunal and submitted that this Court cannot substitute its views on the views of examining authority since the same would be outside the scope of judicial review. The respondents submitted that the order of the Tribunal is not perverse so as to seek interference by this Court. The respondents therefore, prayed for dismissal of this writ petition.

6. We have heard the learned counsel for the petitioner and the learned senior counsel for the respondents and with their assistance have perused the documents annexed to the petition and the affidavit-in-reply.

7. At the outset, we may observe that the scope of judicial review with regard to the correct answer to a particular question is very restricted. Unless the answer is palpably wrong, this Court would restrain itself from interfering in such matters. The Court is not an expert body on deciding which is the correct answer out of 4 options provided by the examining authority and moreso when out of 4 options, 2 options are similar. It is best left to the examining authority to decide which is the correct answer and evaluate the question papers submitted by the candidates.

8. In the instant case, as per the petitioner, the correct answer to opposite meaning of word 'Alleviate' is 'Enhance' as per the dictionary meaning whereas according to the respondents, the correct opposite meaning of the said word is 'Heighten'. In our view, the examining authority has decided Option 1 as the correct answer to evaluate the question paper. If that be so and assuming Option 4-Enhance is also an appropriate answer then the benefit of doubt will have to be given to the examining authority since they are the experts in the field for which the test is conducted. There cannot be 2 correct answers to the same question and since the examining authority has decided Option 1 as the correct answer same cannot be treated as perverse or palpably wrong for this Court to interfere in the decision of the respondents.

9. The Tribunal has also relied upon the experts opinion as referred to in paragraph 14 of its order for dismissing the OA of the petitioner. If an expert opinion is relied upon by the Tribunal and the Court is not an expert in this field, we have to give credence to the expert opinion and even on this count, no perversity can be found in the Tribunal's order in dismissing the OA.

10. In this connection, it is relevant to consider the following observations of the Supreme Court in case of ***Ran Vijay Singh & Ors. Vs.***

***State of Uttar Pradesh & Ors.*¹** and more particularly paragraphs 30.1 to 30.5 which read as under :-

“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 scrutinize 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.”

11. The aforesaid guidelines issued by the Supreme Court has been followed by the Delhi High Court in case of ***Shubham Pal & Ors. Vs. Staff Selection Commission & Anr.***²

12. The decision in case of ***Kanpur University, through Vice-Chancellor & Ors. Vs. Samir Gupta & Ors.***³ does not assist the case of the petitioner inasmuch as the Supreme Court observed that in case of multiple choice objective type test, key answer supplied by the paper-setter should be assumed to be correct and it is in the interest of fairness that the key answer along with the result of the test is considered for the

1 (2018) 2 SCC 357

2 2024 SCC OnLine Del 1052

3 (1983) 4 SCC 309

purpose of selection. In the instant case, the key answer to the question under consideration is Option 1 'Heighten' and therefore, even on this count, the decision of the Supreme Court relied upon by the petitioner is of no assistance.

13. It is also important to note that there were four candidates who challenged the answer to the said question before the Tribunal, whereas it is only one of the applicant who is petitioner before us today. If the petitioner's submissions are to be accepted then it would disturb the whole recruitment process since there would be other candidates who would have also given the correct answer which is option 1 which if reversed now would disturb the entire process of recruitment. It is also important to note that the three candidates before the Tribunal have not challenged the order before us. Therefore on these grounds also the present petition cannot be entertained.

14. In view of the above and after examining from all angles, we are not inclined to interfere with under Article 226 of the Constitution of India with the order of the Tribunal under challenge and therefore, the Writ Petition is dismissed. Rule is discharged. No order as to costs.

JITENDRA JAIN, J.

A.S. CHANDURKAR, J.