



2024:DHC:1830-DB

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

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Judgment delivered on: 06.03.2024

+ **W.P.(C) 455/2024****POOJA SHARMA**

..... Petitioner

versus

**THE REGISTRAR GENERAL HIGH COURT
OF DELHI AND ORS.**

..... Respondents

AND

+ **W.P.(C) 456/2024****PANKAJ DHIMAN**

..... Petitioner

versus

**THE REGISTRAR GENERAL HIGH COURT
OF DELHI AND ORS.**

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr.Ankur Chhiber and Mr.Nikunj Arora,
Advts.

For the Respondents : Mr.Neeraj Shekhar, Dr.Sumit Kumar,
Mrs.Kshama Sharma and Mrs.Priya Parmar,
Advts.

CORAM**HON'BLE MR JUSTICE VIBHU BAKHRU****HON'BLE MS JUSTICE TARA VITASTA GANJU****JUDGMENT****VIBHU BAKHRU, J**

1. The petitioners have filed the present petitions, *inter alia*, impugning Memorandums, both dated 11.05.2023, issued by respondent no. 3 [the Assistant Registrar (Spl./Exam. Cell except



DHJS/DJS), High Court of Delhi] whereby the representations made by the petitioners seeking re-evaluation of their answer sheets submitted in the Administrative Officer (Judicial)/ Court Master (Departmental) Examination-2022 conducted by the respondents, were rejected. The said Memorandums are hereafter also referred to as the impugned memorandums.

FACTUAL CONTEXT

2. On 12.05.2022, a notice inviting applications for filling up six existing vacancies for the post of Administrative Officer (Judicial)/Court Master (hereafter *notice dated 12.05.2022*) was issued by respondent no. 2 [the Joint Registrar (Spl./Exam. Cell except DHJS/DJS), High Court of Delhi]. The candidates eligible for appointment to the said post, in terms of Item Nos. 9A and 10 of Schedule II (A) of the Delhi High Court Establishment (Appointment and Conditions of Service) Rules, 1972, were invited to submit their applications online from 19.05.2022 onwards. The last date for applying, as stipulated in the notice dated 12.05.2022, was 01.06.2022.

3. The Administrative Officer (Judicial)/ Court Master (Departmental) Examination-2022 (hereafter *the Examination*) was to be conducted in two successive stages. The first stage being the written examination stage, was to be conducted in two parts, Written Paper- I and Written Paper- II. Candidates securing a minimum of 50% marks in Written Paper- I and Written Paper- II each, which were conducted



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on 09.07.2022 and 17.07.2022 respectively, were eligible to appear for the next stage of the Examination being the interview/*viva-voce*.

4. The result of the first stage of the Examination was declared on 25.11.2022 and the petitioners qualified the same. Thus, the petitioners were admitted to participate in the interview. The interview for both the petitioners was conducted on 17.12.2022. On 22.12.2022, respondent no.1 [the Registrar General, High Court of Delhi] declared the final result of the Examination.

5. The aggregate marks awarded to the candidates, who were considered for appointment, were the sum of marks obtained by them in Written Paper-I, Written Paper-II and the interview/*viva-voce*. Whereas, Ms. Pooja Sharma [petitioner in W.P.(C) 455/2024] scored an aggregate of 145.5 marks out of the maximum of 230 marks, Mr. Pankaj Dhiman [petitioner in W.P. (C) 456/2024] scored an aggregate of 144 marks out of the maximum of 230 marks.

6. The candidates were selected in the order of their merit. Amongst the candidates selected for appointment, the candidate scoring the least marks scored aggregate marks of 145.5 out of the maximum of 230 marks.

7. Despite having scored marks equal to that of the last selected candidate, Ms. Pooja Sharma [petitioner in W.P.(C) 455/2024] was not recommended for appointment as in case of a tie, the candidate with higher seniority was required to be recommended for appointment. This



rule was mentioned in unambiguous terms in the notice dated 12.05.2022.

8. Mr. Pankaj Dhiman [petitioner in W.P. (C) 456/2024] was not recommended for appointment despite having passed the Examination as he had scored 1.5 marks less than the marks secured by the candidate lowest in the order of merit of selected candidates.

9. The petitioners being aggrieved by the final result declared on 22.12.2022, applied for copies of their answer sheets of the Written Papers-I and II by filing applications under the Right to Information Act, 2005. The petitioners also made representations, both dated 03.03.2023, to Hon'ble the Chief Justice, High Court of Delhi challenging the scrutiny of their answer sheets and sought directions for re-evaluation/ re-examination of their answer sheets. They claimed that their answer sheets were incorrectly evaluated and marked. The petitioners also sought promotion to the post of Administrative Officer (Judicial)/Court Master as a consequential relief.

10. The petitioners were informed by way of the impugned memorandums that their representations dated 03.03.2023 were considered and rejected by the Competent Authority.

11. The present petitions have been filed by the petitioners alleging that the impugned memorandums were non-speaking and that the Competent Authority had failed to appreciate the discrepancies in the evaluation of Written Papers-I and II.



SUBMISSIONS

12. The learned counsel for the petitioners submitted that the error in the evaluation of the answer sheets of Written Papers-I and II is demonstrable. He contended that no reasonable body of men, well-versed with the subject matter, would consider the evaluation of answers to certain questions as correct.

13. The learned counsel referred to the decision of this Court in *Sh. Manoj Saklani v. Union of India & Ors.*: 2023:DHC:8693-DB and contended that the Court had granted additional marks to the petitioner as the Court had found that the answer key in the concerned examination was demonstrably erroneous.

14. He referred to answers to four questions in Written Papers- I and II of the Examination, which, according to him, demonstrated that the same were incorrectly marked. He referred to answers to Question No. 22, Question No.30, and Question No. 39 of Written Paper-I, and Question No. 4 (iv) of Written Paper-II. His contentions in respect of answers to each of the questions are briefly noted below.

14.1 Question No. 30 of Written Paper-I reads as: “As per Delhi High Court (Right to Information) Rules, how much is the Deposit Application Fee?” The instruction stated that the answers were expected with provisions/Rules in “one word”. Mr. Pankaj Dhiman’s answer to the question was: “Rs. 10”. He was awarded half a mark out of a maximum of one mark. The learned counsel submitted that since the



question was required to be answered in one word, the said petitioner was entitled to maximum marks for his answer. He also contended that another candidate, who had submitted a similar answer was awarded maximum marks.

14.2 Question No. 39 of Written Paper-I was “Whether the RTI application once filed can be withdrawn?”. The instructions indicated that the answer was expected with provisions/Rules in “one sentence”. Mr. Pankaj Dhiman was awarded zero marks out of a maximum of one mark. He answered the question as under:

“There is no specific provisions in this regard in RTI Act or DHC(RTI) Rules.

However, by making separate applications applicant can withdraw his earlier application.”

The learned counsel for the petitioners submitted that the said answer was correct yet, Mr. Pankaj Dhiman was not awarded any marks for the same.

14.3 Question No. 22 of Written Paper-I required the candidate to “Mention any four reasons for which the Hon’ble Court, as per Delhi High Court (Original Side) Rules, may issue commission(s) from time to time?”. The instructions for the question stated “Answers expected with provisions/Rules” and “four reasons (1/2 x 4)”. Mr. Pankaj Dhiman answered the question as under:

“When Hon’ble Court may issue Commission(s) –



- For making local investigation(s)
- For making scientific investigation(s)
- For recording evidences
- For performing any Ministerial act(s)
- For carry out partition of immovable property”

It was submitted that the answer to the question was correct yet, only 1.5 marks were awarded instead of the maximum of two marks.

14.4 Question No. 4 (iv) of Written Paper-II reads as “How is the fee payable under the Court Fees Act, 1870 (as applicable to the National Capital Territory of Delhi), on a Probate of a will or letters of administration, computed?” Mr. Pankaj Dhiman was awarded 1 mark out of a maximum of two marks. He had answered the question as under:

“As per point entry-11 of schedule-I of the Court Fee Act-

fee on Application for probate of a will or letter of Administration is as follows:

from value of the property

Rs. 1000 to 10,000 → 2% of such value

Rs. 10,000 to 50,000 → 2 ½ % of such value

Rs. 50,000 → 3% of such value”

It was contended that the said answer was correct yet, the petitioner was not awarded the maximum marks.



REASONS AND CONCLUSION

15. At the outset it is material to note that although the petitioners have mentioned various questions, they had rested their challenge on the evaluation of answers furnished by Mr. Pankaj Dhiman [petitioner in W.P. (C) 456/2024] to only four questions as noted hereinbefore.

16. The scope of judicial review in matters of examination and evaluation of answer sheets is limited. The courts will not interfere with the evaluation of the examining authority unless it is found that there is a manifest error, which is demonstrable without any elaborate process of reasoning or rationalisation. In the present case, the petitioners, in effect, seek re-evaluation of their answer sheets.

17. At the outset, it is relevant to note that the written examination was of a subjective type. The answers to questions were evaluated to assess the knowledge of the examinee on the basis of the quality and correctness of the answers. Second, it is important to note that there is no provision for re-evaluation of the answer sheets.

18. It is well settled that the court will not direct re-evaluation of answer sheets, where the same is proscribed or there is no provision permitting the same. In ***Pramod Kumar Srivastava v. Chairman, Bihar Public Service Commission, Patna & Ors.: (2004) 6 SCC 714***, the Supreme Court had observed as under:

“7. ...There is no dispute that under the relevant rule of the Commission there is no provision entitling a candidate to have his answer-books re-evaluated. In



such a situation, the prayer made by the appellant in the writ petition was wholly untenable and the learned Single Judge had clearly erred in having the answer-book of the appellant re-evaluated.

8. Adopting such a course as was done by the learned Single Judge will give rise to practical problems. Many candidates may like to take a chance and pray for re-evaluation of their answer-books. Naturally, the Court will pass orders on different dates as and when writ petitions are filed. The Commission will have to then send the copies of individual candidates to examiners for re-evaluation which is bound to take time. The examination conducted by the Commission being a competitive examination, the declaration of final result will thus be unduly delayed and the vacancies will remain unfilled for a long time. What will happen if a candidate secures lesser marks in re-evaluation? He may come forward with a plea that the marks as originally awarded to him may be taken into consideration. The absence of clear rules on the subject may throw many problems and in the larger interest, they must be avoided.”

19. It is also relevant to refer to the decision of the Supreme Court in ***Himachal Pradesh Public Service Commission v. Mukesh Thakur & Anr.: (2010) 6 SCC 759***. In the said case, the High Court had directed that the answer sheets of the examinee be sent to another examiner of a rank of a Reader in Law of Himachal Pradesh University for re-evaluation. The said decision was implemented and on re-evaluation, higher marks were awarded to the examinee. These marks were sufficient for the examinee to be placed in the select list. Accordingly, the High Court had directed the Himachal Pradesh Public Service Commission to issue an appointment letter. The Supreme Court set



aside the order of the High Court. The Apex Court faulted the decision to examine the questions, which the High Court found was fraught with inconsistencies. The relevant extract of the said decision is set out below:

“16. It is a settled legal proposition that the court cannot take upon itself the task of the statutory authorities.

XXXX

XXXX

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20. In view of the above, it was not permissible for the High Court to examine the question papers and answer sheets itself, particularly, when the Commission had assessed the inter se merit of the candidates. If there was a discrepancy in framing the question or evaluation of the answer, it could be for all the candidates appearing for the examination and not for Respondent 1 only. It is matter of chance that the High Court was examining the answer sheets relating to Law. Had it been other subjects like Physics, Chemistry and Mathematics, we are unable to understand as to whether such a course could have been adopted by the High Court. Therefore, we are of the considered opinion that such a course was not permissible to the High Court.”

20. In *Subhash Chand v. High Court of Delhi: 2019 SCC OnLine Del 8132*, a Coordinate Bench of this Court had referred to various decisions and had observed that “*a long line of authorities lays down that no re-evaluation can be ordered by the court in absence of rules providing for the same*”.



21. In *High Court of Tripura v. Tirtha Sarathi Mukherjee and Ors.*: (2019) 16 SCC 663, the Supreme Court had held that in rare and exceptional cases, where there is a manifest error in evaluation of examination papers, the court may exercise the powers under Article 226 of the Constitution of India for granting relief. The Supreme Court had explained that the candidates have the right for fair evaluation in accordance with the specified procedure. If it is found that the said right is violated, it may be necessary for the court to exercise its powers to ensure preservation of rights.

22. In *Sh. Manoj Saklani v. Union of India & Ors.* (supra) this Court had referred to several judgements and summarized the scope of judicial review in matters relating to examinations as under:

“22. From an examination of the above judicial pronouncements, the following position emerges: -

- (a) Judicial review in educational matters is very narrow, inasmuch as,
- (b) courts shall not normally interfere with the decisions taken by academic experts.
- (c) Courts shall proceed under the assumption that the answer key is right.
- (d) In exceptional circumstances, if there is an error which is manifest, palpable and apparent, writ courts may choose to interfere; provided
- (e) such an error is demonstrably wrong, inasmuch as no reasonable body of men well-versed in the particular subject would regard it as correct.”



23. We are unable to accept, in the given facts, that the evaluation of the answers sheets is manifestly and demonstrably erroneous, warranting any intervention by this Court. The instances of four questions as pressed by the learned counsel and as noted above, clearly indicate that there was no patent error in evaluation.

24. The first question referred to by the learned counsel, for demonstrating a manifestly erroneous marking, is Question No. 30 of Written Paper-I. The examinee was required to answer the question as to how much was the application fee under the Delhi High Court (Right to Information) Rules, 2006. The petitioner (Mr. Pankaj Dhiman) had responded by stating “₹10/-”. However, he had not provided the provision or the specific rule under which the said fee was payable. Concededly, it was expected of all examinees to also mention the provisions/rules in their answers. Notwithstanding the same, the examiner had awarded 0.5 marks out of one mark to Mr. Pankaj Dhiman.

25. It was initially contended that another candidate, who had furnished a similar answer, was awarded one mark. However, there is no material on record to establish the same. The learned counsel appearing for the respondent had contested the claim that there was another candidate who had been awarded higher marks despite giving the same answer. At the stage of rejoinder, the learned counsel for the said petitioner had fairly conceded that there was some misapprehension on the part of the said petitioner.



26. It was contended that another candidate, Mr. Manish Bahl, was awarded higher marks for a similar answer. This claim is erroneous as the answer sheets of Mr. Bahl indicate that he had referred to the Rules as well. In the given circumstances, we are unable to accept that the evaluation of the answer furnished by Mr. Pankaj Dhiman, is demonstrably flawed.

27. The second instance mentioned by the learned counsel was the marks awarded in respect of answer to Question No. 22 of Written Paper-I. Concededly, the petitioner (Mr. Pankaj Dhiman) had not mentioned any statutory provision in his answer. The question paper expressly provided that the examinees were expected to also refer to the provisions/rules in support of their answers. Notwithstanding the same, the examiner had awarded 1.5 out of a maximum of two marks. We are unable to appreciate as to how the said evaluation could, by any stretch, be considered as manifestly erroneous.

28. The examinees were required to respond to Question No. 39 of Written Paper-I in one sentence. The question being whether an RTI application once filed can be withdrawn. Although the petitioner (Mr. Pankaj Dhiman) had answered in the negative, he had also answered that a separate application can be made for withdrawing an earlier application. Concededly, there is no provision relevant for withdrawing an RTI application. Writing the said additional statement also resulted in Mr. Pankaj Dhiman falling foul of the expectation that the answer



would be confined to one sentence. The examinee had also not set out the complete title of the Statute – the Right to Information Act, 2005.

29. The last question referred to by the appellant is Question No. 4 (iv) of Written Paper-II, which required the examinee to state the fee payable under the Court Fees Act, 1870 (as applicable to the National Capital Territory of Delhi) on probate of will or letters of administration. The response of the petitioner (Mr. Pankaj Dhiman) indicates that there was an error in his answer. He had set out the three slabs of the value of the property and the corresponding fee payable as under:

“Rs. 1000 to 10,000 → 2% of such value

Rs. 10,000 to 50,000 → 2 ½ % of such value

Above Rs. 50,000 → 3% of such value”

30. It would be seen that ₹10,000/- and ₹50,000/- occur in two slabs. The three slabs under Clause 11 of Schedule I of the Court Fees Act, 1870 are values exceeding ₹1,000/-, but not exceeding 10,000/-; value exceeding ₹10,000/-, but not exceeding ₹50,000/-; and value exceeding ₹50,000/-. Thus, the second slab is not ₹10,000/- to ₹50,000, but rather ₹10,001 to ₹50,000 and the last slab is greater than ₹50,000/-. The petitioner’s assumption that his answer to Question No. 4 (iv) is correct, is clearly erroneous.



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31. In the given circumstances, we find that there are no grounds to direct re-evaluation of the answer sheets, as prayed for by the petitioners.

32. The petitions are, accordingly, dismissed.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

MARCH 06, 2024
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