

IN THE HIGH COURT OF JHARKHAND AT RANCHI  
L.P.A No. 77 of 2013

Jharkhand Public Service Commission & Ano.  
Vs.  
Rajesh Ekka

CORAM: HON'BLE THE CHIEF JUSTICE  
HON'BLE MRS. JUSTICE JAYA ROY

For the Appellant/Petitioner : M/s.Anil Kumar Sinha, Snr.Adv.,  
R.Shankar, A.Prakash  
For the Respondents : Mr.Mithilesh Kumar Pandey

Dated 23<sup>rd</sup> July 2013

Learned counsel for respondent-writ petitioner submitted that the respondent-writ petitioner has been selected in the 4<sup>th</sup> Jharkhand Service Commission selection process and therefore, he is not interested in pursuing his writ petition, WP (S) No.1895/2012, wherein learned Single Judge directed for re-evaluation of the question no.10 of the Statistics paper.

In view of the above submission of the learned counsel for the writ petitioner, the writ petition of the respondent-writ petitioner itself has become infructuous and therefore, this appeal is allowed and the impugned order dated 14.1.2013 is set aside and the aforesaid writ petition is dismissed as withdrawn.

(Prakash Tatia, C.J.)

(Jaya Roy, J.)

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IN THE HIGH COURT OF JHARKHAND AT RANCHI  
W. P. (S) No. 1895 of 2012

Rajesh Ekka ..... Petitioner  
Versus  
Jharkhand Public Service Commission, through the Chairman, Ranchi & Another  
..... Respondents

CORAM: HON'BLE MR. JUSTICE NARENDRA NATH TIWARI

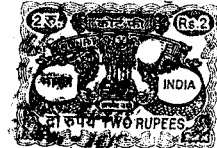
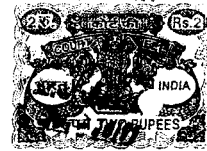
For the Petitioner - Mr. Indrajit Sinha  
For the Respondents - Mr. S.Piprawall

2/14.1.2013 According to the petitioner, his grievance of non-allotment of proper marks against question No.10 has been found correct by the respondents-JPSC themselves. On scrutiny it was found that the answer to question No.10 has been evaluated and 20 marks out of 40 marks has been allotted. It has been submitted that the said evaluation is tainted with malice and bias. The said question is related to Statistics subject. The answer given by the petitioner is either wrong or right. However, 50% marks has been allotted to the petitioner without any ground. It has been submitted that by adding the said 20 marks, the petitioner is only 5 marks below the cut off marks disclosed by the respondents. There is no ground for deducting 20 marks from the petitioner's answer to question No.10. The same has been purposely done so as to keep the petitioner below the cut off marks.

Learned counsel appearing on behalf of the Jharkhand Public Service Commission, Ranchi (J.P.S.C) has controverted the said contentions of the petitioner and has submitted that as per the direction of this Court, the petitioner's answer book has been checked and it was found that no mark was allotted against the answer to question No.10. The said answer was got evaluated and as per best of his judgment, the examiner has allotted 20 marks out of 40 marks. The petitioner has no ground to challenge the said best judgment of the examiner. The petitioner's grievance is wholly baseless.

I have heard learned counsel for the parties.

According to the petitioner, he had done well in the 3<sup>rd</sup> Combined Civil Services Main Examination conducted by the J.P.S.C, but he was kept below the cut off marks. The petitioner filed application for information regarding the marks allotted to him in the General Studies-I paper, question-wise. On scrutiny, it was found that some of the



answers were not evaluated by the examiner including the answer to question No.10 (related to Statistics subject). The petitioner had prayed for evaluation of those answers, but that was not done. The petitioner raised that grievance before this Court.

After looking to the petitioner's answer sheet and finding the petitioner's grievance true, this Court by order dated 15.5.2012 directed the J.P.S.C to examine the petitioner's answer sheet and evaluate the answers which were not evaluated.

The J.P.S.C is said to have scrutinized the petitioner's answer sheet of the General Studies-I. According to the J.P.S.C, only answer of question No.10 was found to be not evaluated. The same was got evaluated. That question was of 40 marks. On evaluation the petitioner has been allotted only 20 marks. The said marks have been allotted by the examiner according to his best judgment and the same cannot be challenged.

I have heard learned counsel for the parties and considered the facts and circumstances appearing on record. The grievance of the petitioner regarding non-evaluation of some of his answers, has been found true. According to him, question No.10 is related to Statistics subject which has been correctly answered and there is no justification for deducting 50% marks. The petitioner has reason to pursue the matter, as according to him, he is only 5 marks below the cut off marks. He has got through the interview. According to him, he has been intentionally allotted less mark on evaluation of unevaluated answer by the order of this Court. The marking is tainted with malice to deprive him of getting the cut-off mark.

Considering the circumstances appearing on record, the apprehension of the petitioner cannot be said to be without any reason.

In view of the above, this writ petition is disposed of directing the J.P.S.C to constitute a Committee of at least three members, who are experts in the subject of the related question of the status not less than the University Professor and get the petitioner's answer to question No.10 in the petitioner's answer book evaluated independently by each member. Each member shall note down the marks allotted by him on a separate sheet, without disclosing the same to others. The first member shall, thereafter, collect the marks and take out average of the marks allotted by each member. The average mark shall be the marks evaluated by the Committee. If the

marks allotted by the Committee is found to be more than the marks allotted by the examiner, the same shall be treated as the marks allotted for answer to question No.10. If the marks evaluated by the Committee is less, evaluation already made by the examiner in the evaluated answer sheets shall remain undisturbed. The respondents shall complete the entire process within four weeks from the date of receipt / production of a copy of this order.

S.K

*sd/-* (NARENDRA NATH TIWARI, J)

**Certified to be true Copy**

*Jr. Khan /*  
*8/2/13*

Copying Officer

Designated under Rule 257 (1) of J.H.C Rules

Authorised

*The 19<sup>th</sup> Magha 1934*  
*8.02.13*

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