
(2019) 05 RAJ CK 0221

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4006 Of 2019

Ramniwas Saharan

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 28-05-2019

Acts Referred:

Citation : (2019) 05 RAJ CK 0221

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Gourav Thanvi, Rajendra Kataria, Kailash Choudhary, Manish Vyas

Final Decision : Allowed

Judgement

This writ petition has been filed by the petitioner questioning the result of examination of recruitment to the post of Constable (General), seeking rectification of the result of the petitioner, for permitting the petitioner to participate in PST/PET and accord him appointment as per his merit.

It is inter alia indicated in the writ petition that pursuant to the advertisement dated 25.5.2018, the petitioner applied for the post of Constable (General), Non-TSP in OBC category for District Bhilwara. In the result of the written examination declared by the respondents, the roll number of the petitioner was not reflected. In the mark-sheet issued by the respondents, the petitioner has been shown to have obtained 17.5 marks in Part-C (Annex.P/5) and a total of 49.62 marks and cut-off in the category of the petitioner (Annex.P/6) has been indicated at 52.375 marks.

The petitioner obtained his OMR-sheet under the Right to Information Act, 2005, based on which, the claim made is that the petitioner is entitled to 23 marks in Part 'C', whereas, he has only been awarded 17.5 marks.

It is submitted that in case the petitioner is awarded 23 marks, to which he is entitled, he would be within the cut-off and entitled to participate in PST/PET and

further selection process and, therefore, the rejection of petitioner's candidature on account of wrong awarding of marks by the respondents deserves to be set aside.

Learned counsel for the petitioner has relied on order in *Swarup Singh Solanki v. State of Rajasthan & Ors.* : S.B. Civil Writ Petition No.18870/2018, decided on 24.5.2019, wherein, in a similar nature writ petition, directions were issued to rectify the result based on re-reading of the OMR-sheet.

A reply to the writ petition has been filed by the respondents inter alia indicating that the petitioner is not entitled to any relief as the OMR-sheet has been read by the system and once the system has not read the answers marked by the petitioner, the petitioner is not entitled to the marks for the said questions and, therefore, the petition deserves dismissal.

I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

Under the directions of the result, the respondents have produced the original OMR-sheet of the petitioner.

A perusal of the original OMR-sheet indicates that the petitioner has appropriately marked all the requisite bubbles in Part 'C' and apparently once some of the answers given by the petitioner are correct as per the model answer key, there appears to be no reason for awarding 17.5 marks to the petitioner in Part 'C'.

Though the respondents have taken an omnibus plea in reply to the writ petition seeking to uphold the marks awarded, a perusal of the original OMR-sheet as observed hereinbefore, clearly indicates that the marks awarded to the petitioner, based on alleged non reading of the OMR-sheet of the petitioner by the system, cannot be sustained.

In the case of *Swarup Singh Solanki (supra)*, a Coordinate Bench of this Court in a similar nature writ petition directed as under:-

"In view of the above, the present writ petition is disposed of, with a direction to the respondents to rectify the OMR-sheet of the petitioner for Questions No.100 to 119 of Section 'C' and issue the fresh Score Card in his case; and if the petitioner is found to have obtained more marks than the cut-off marks in his category, he may be considered for appointment with effect from the date the candidates below in merit list were appointed, however, the petitioner would be entitled to only notional benefits for the intervening period.

Compliance of this order be made by the respondents within a period of two months from the date of receipt of the certified copy of this order.

The writ petition stands disposed of accordingly."

In view of the above, the writ petition filed by the petitioner is allowed. The

respondents are directed to rectify the score-sheet of the petitioner for written test pertaining to Part 'C' of the OMR-sheet after subjecting the OMR-sheet to re-processing and if the petitioner obtains marks more than the cut-off, he be subjected to PST/PET and based on the marks obtained by the petitioner, if he obtained marks higher than the cut-off in the category of OBC (male) for District Bhilwara for the post of Constable (General), he be accorded appointment with effect from the date, the candidates lower in merit to the petitioner have been accorded appointment, however, the petitioner would be entitled to actual benefits from the date of his appointment.

Needful may be done by the respondents within a period of four weeks from today.