

(2014) 12 JH CK 0002

In the Jharkhand High Court

Case No : Writ Petition (Civil) No. 3260 of 2013

Ravi Shekhar

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 01-12-2014

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 21

Citation : (2015) 1 AJR 351 : (2015) 1 JLJR 600

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Ashok Kr. Yadav, Advocate for the Appellant; M. Sohail Anwar, Sr. Advocate and Suchitra Pandey, J.C. to G.P. V, Advocate for the Respondent

Judgement

S. Chandrashekhar, J.—Seeking quashing of Combined Secretariat Services Competitive (Mains) Examination- 2012 conducted by the Jharkhand Staff Selection Commission (JSSC) on 16.12.2012, and with a direction to JSSC to conduct a fresh Combined Secretariat Services Competitive (Mains) Examination or, in alternative to direct JSSC to conduct an additional Combined Secretariat Services Competitive (Mains) Examination for the petitioners and other bonafide candidates who appeared in the 2012 - Examination held on 16.12.2012, the present writ petition has been filed.

2. The brief facts of the case as narrated in the writ petition are that, pursuant to Advertisement No. 1 (CSSCE) 2012, the petitioners appeared in the Combined Secretariat Services Competitive (Preliminary) Examination- 2012, which was conducted on 30.09.2012. The First Answer Key for the Preliminary Examination (PT) was published on 13.10.2012 and JSSC invited objections from the candidates in respect of the questions in the Preliminary Examination. The last date for objections from the candidates was 20.10.2012 and the result for the Preliminary Examination was published on 14.11.2012. The petitioners were declared qualified in the Preliminary Examination. Alongwith the result of the Preliminary Examination, the error-free Final Answer Key was also published on

14.11.2012 which indicated that out of 120 questions, Question Nos. 38, 85 and 102 in Booklet No. B and the corresponding serial numbers for those questions in other Booklet Series, were found wrong and thus cancelled by JSSC. The petitioners appeared in the Combined Secretariat Services Competitive (Mains) Examination conducted on 16.12.2012 in which also Question Booklet consisted of several wrong questions as well as wrong options for answers. There were other discrepancies found in the questions in Paper- I particularly, Question Nos. 1 to 5, 14, 16, 24, 28, 72, 81 and 92 in Booklet Series- B, as a result of which, the petitioners suffered loss of marks, waste of precious time in solving/ attempting to solve wrong questions. Besides this, the wrong questions and wrong options created lot of confusion. The JSSC published the First Answer Key for the Combined Secretariat Services Competitive (Mains) Examination on 19.12.2012 and the petitioners sent their objections. In the meantime, JSSC published the Final Answer Key of Mains Examination on 11.01.2013 and admitted two questions being wrong however, the other discrepancies in questions and options for answer pointed out by the petitioner No. 1 were not considered and on 18.03.2013, the result of the Mains Examination was declared and published by JSSC. The petitioner No. 1 submitted several representations however, he received no response from JSSC. The anomaly in final result of Mains Examination is apparent from the fact that one candidate namely, Laxmi Banra though did not appear in the Mains Examination and thus, her candidature was shown cancelled and the information available on Internet on 13.05.2013 discloses marks obtained by her in two papers "NIL" however, she has been shown a successful candidate in the merit list at Sl. No. 363. Similarly, another candidate namely, Vibhakar Kumar having Roll No. 40894 has been shown a successful candidate, though his score card is not available in the Internet. The successful candidates have scored very high marks, that is, more than 83% marks, which is not possible in the Mains Examination as, there was negative mark.

3. A counter-affidavit has been filed on behalf of the respondent No. 2- Jharkhand Staff Selection Commission, Ranchi stating that merely because some of the questions were wrong which were subsequently cancelled and were not evaluated for the purpose of selection, the Combined Secretariat Services Competitive (Mains) Examination- 2012 cannot be cancelled. The total marks in the competition was 720 and after cancelling the wrongly framed questions or/ and questions having wrong answers, the total marks was reduced to 693 and thus, the wrong questions or wrong option for questions would not adversely affect the selection process nor it has caused any injustice to the candidates who appeared in the Examination. The result of Mains Examination was published on 16.03.2013 in which, the Commission recommended 575 candidates for appointment to the post of Secretariat Assistant on 27.04.2013. About 555 candidates have already been appointed and posted as Assistants in different departments of government. The selected candidates have not been made party in the writ petition. The process of selection of candidates through Mains

Examination was just and fair and the action of the Commission is not violative of Article 14 and 16 of the Constitution of India. Since the wrong questions were cancelled, it has not affected the petitioners. Since the petitioners could not qualified, they cannot claim violation of Article 21 of the Constitution of India. The objections were forwarded to the Expert Panel and on the advise of the Panel, the Final Answer Key was prepared. The allegation with respect to Laxmi Banra having Roll No. 440995 is not correct as she scored 427 marks in the Mains Examination and she has been selected in ST Category. Similarly, details of Vibhakar Kumar having Roll No. 40894 is also available on the website. He has scored 537 marks.

4. Heard learned counsel appearing for the parties and perused the documents on record.

5. Mr. Ashok Kumar Yadav, the learned counsel appearing for the petitioners submits that due to wrong questions/wrongly framed questions and wrong options for the questions in the Examination, the candidates suffered serious prejudice. It resulted in wastage of precious time. Since the Commission has admitted that there were 27 wrongly framed questions/wrong answers for questions, merely because those questions were excluded from consideration, the result for Mains Examination cannot be approved. Relying on decision in "Mukesh Kumar Singh Vs. State of Bihar & Ors." (CWJC No. 11858 of 2008) and Batch cases and in Pankaj Sharma Vs. State of Jammu and Kashmir and Others, , the learned counsel for the petitioners submitted that the least which was required in the present case was that JSSC should have either cancelled the result of the Mains Examination or conducted an additional Mains Examination for other candidates.

6. Per contra, Mr. M. Sohail Anwar, the learned senior counsel appearing for the JSSC reiterated the stand taken in the counter-affidavit and submitted that the entire selection process was fair and transparent. The petitioners have not alleged any irregularity in conduct of Examination. The allegation with respect to one Laxmi Banra and Vibhakar Kumar has been duly explained by the Commission. The wrong questions or the questions which carried wrong option for answers were excluded from consideration which is applicable to all the candidates and therefore, the petitioners cannot plead any discrimination or prejudice caused to them.

7. I have carefully considered the submissions of the counsel for the parties and perused the documents on record.

8. In Pankaj Sharma's case, the main issue was the decision taken by the Commission which was not ratified by all the Members. Since the Commission had itself accepted the direction of the High Court, the Hon''ble Supreme Court refused to interfere in the matter. In the said case, the decision in Kanpur University and Others Vs. Samir Gupta and Others, has been considered by the Hon''ble Supreme Court in which, it has been observed that "Lastly, if the

attention of the University is drawn to any defect in a Key Answer or any ambiguity in a question sought in the Examination, prompt and timely decision must be taken by the University to declare that the suspect question would be excluded from the paper and no marks assigned to it". In the present case, the objections were referred by JSSC to the Expert Panel and after the recommendation of the Expert Panel, 27 questions were deleted from consideration. The remedial step as indicated by Hon"ble Supreme Court were taken by the Commission. Merely because the petitioners feel that some more questions were wrong/wrongly framed or contained wrong options for answer, is not sufficient to draw an inference of prejudice caused to the petitioners and on that ground, the entire selection process cannot be cancelled. The objections of the petitioners have been satisfactorily answered by the respondent No. 2- JSSC in the counter-affidavit.

9. I find no merit in this case and accordingly, this writ petition is dismissed.