
(1998) 05 OHC CK 0003

In the Orissa High Court

Case No : Original Jurisdiction Case No's. 1665, 5121, 7765, 7904, 7922, 7926, 8080, 8187, 8219, 8235, 8340, 8361, 8364, 8399, 8413, 8444, 8452, 8493, 8506 and 8620 of 1997

Saroj Kumar Rout and Others

APPELLANT

Vs

Orissa Public Service Commission and Others

RESPONDENT

Date of Decision : 15-05-1998

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1998) 2 OLR 8

Hon'ble Judges : S.N. Phukan, C.J.;A. Pasayat, J

Bench : Division Bench

Advocate : G.P. Mohanty, H.P. Mohanty, S.S. Swain, B.R. Sarangi, B. Dash, D.K. Mohapatra, B.P. Ray, H.M. Dhal, P.C. Rout, P.K. Patnaik, U. Mishra, S.R. Kanungo, M. Mohanty, G.K. Mishra, G.N. Mishra, R.K. Patnaik, D.K. Nanda, N.K. Dash, S.K. Pradhan 2, P.K. Khuntia, G. Tripathy, A.K. Swain, B. Bhol, S. Lenka, R.N. Dasmohapatra, D.P. Nanda, S. Lal, R. Sharma, B. Nayak, S. Singhsamant, A. Das, N. Patra, A.K. Patra, C.R. Singh, P. Mohanty, D.N. Mohapatra, G.S. Satpathy, J. Mohanty and M. Mishra, for the Appellant; M.R. Mohanty, Addl. Government Advocate and Counsel, for the Respondent

Final Decision : Dismissed

Judgement

S.N. Phukan, C.J.—By this common judgment, we dispose of the aforesaid batch of writ petitions. In some of the writ petitions, we have taken suo motu action on receiving letters.

2. The Orissa Public Service Commission (for short, the O.P.S.C.) issued an advertisement inviting application for admission to Combined Competitive Examination, 1997 for appointment to different posts in Orissa Civil Service. A reference has been made to Orissa Civil Services (Combined Recruitment Examination) Rules, 1991. Rule III provides for direct recruitment. According to column-2 of Schedule I of the Rules, direct recruitment has to be done through competitive examination, under the relevant rules, regulations, resolutions, etc.

The Commission has to recommend under Rule 50 a merit list of the candidates. Rule 4 deals with holding of examination in the manner prescribed in Schedule II. Applications of all the petitioners were found valid and they appeared in the Orissa Civil Services Preliminary Examination, 1997 held on 23.3.1997. There were two papers, namely, English and M.I.L. (Oriya/ Hindi). All the petitioners, who became unsuccessful in the preliminary examination have filed the present petitions.

3. It has been pleaded that according to rules, there is no provision for holding preliminary examination and, therefore, it is violative of the said rules. It has also been pleaded that normally, codification of examination papers takes place in the office of the Commission in presence of one member and then stamped and kept in the locker of the Chairman. Only when all the papers are returned to the office after valuation that decoding process takes place in the office of the Commission. According to the petitioners, the coding was done by outside agencies like teachers of Ravenshaw College and another college. Persons who were entrusted with the coding work were also entrusted with the evaluation of papers. The following allegations have also been made :

1. Valuation of answer scripts was erratic and examiners were inexperienced.
2. Candidates who did not appear in the examination have been declared qualified. The roll numbers were mentioned in this regard, namely, roll Nos. 1778 and 5385.
3. Publication of result was erroneous because there were large gaps in between the roll numbers published.
4. 500 answer scripts were lost in the Ravenshaw College.
5. There were instances of favouritism.
6. Policy of reservation for Scheduled Castes and Scheduled Tribes was not applied in the Preliminary examination.

4. A common counter affidavit has been filed on behalf of the Commission. It has been stated that examination of recruitment to Orissa Civil Services was held after a long time - the last examination was held in the year 1996. The Commission could publish the result expeditiously as it adopted for the first time the system of central evaluation of answer scripts instead of evaluation at the residence of individual examiners. According to the Commission, having regard to the large number of candidates, there was a need for qualifying screening test through the system of preliminary examination which was introduced for the purpose of selection of candidates for the main examination. In the preliminary examination, 39,082 candidates were admitted. The examination was held in 121 centres on 23.3.1997. The number of candidates who took the examination in English and M.I.L. was 32,431 and 32298 respectively. 9630 candidates were declared qualified to take the main examinations per the decision of the Commission. In the preliminary examination, elaborate arrangements were made

for evaluation of answer scripts at Ravenshaw College under the supervision of the Principal, who is a very senior teacher with long experience. He was the Chief Co-ordinator-cwm-Centre Supervisor and was assisted by the senior members of the teaching staff who acted as Co-ordinators and Deputy Co-ordinators. Most of the examiners had teaching experience of over ten years and the Chief Examiner, more than 25 years. The answer scripts were examined by the college teachers in units of seven to ten each under a Chief Examiner. Scrutinizers were also appointed for each unit. In addition. Valuation Officers were engaged to ensure error-free evaluation by re-checking answer scripts at random. The Commission decided that candidates securing 30% marks in each subject, namely, English and M.I.L, shall be allowed to appear in the main examination.

5. Some of the unsuccessful candidates represented that they had done very well in the examination, but to their utter surprise, they were not declared successful. They asked for re-evaluation and they were informed that there is no such procedure, but the answer scripts could be re-checked. It was decided by the Commission that the applications received till 30.6.1997 for re-checking would be disposed of within the days. 292 such requests were received. All those were re-checked and there was not a single case where it was necessary to change the result published. The candidates were informed accordingly.

6. Regarding the allegation of coding, it has been stated that coding was duly done in the Commission's office by dedicated, reliable and responsible persons under the supervision of very senior officers of the Commission. Besides, no person associated with coding was engaged in evaluation of answer scripts. Regarding erratic evaluation, it has been stated that an examiner was required to evaluate only 20 answer scripts in five hours under the direct supervision of Chief Examiners and they were asked to give an undertaking that none of their close relations had taken the examination. Evaluations were made under 13 Chief Examiners in systematic and regular way Regarding the allegation that candidates, whose roll numbers have been quoted, did not appear in the examination, but they were declared qualified it has been stated that the matter has been verified with reference to the evaluated answer scripts, attendance sheets, etc. It was found that both candidates had taken the examination in both the subjects, as certified by the invigilators. As to the allegation of publication of results in an erroneous manner, it has been stated that in the scheme of allocation of roll numbers, there was a large range of numbers then candidates admitted to the examination. Therefore, several roll numbers were not allotted to any candidate. That apart, out of more than 39000 candidates admitted, about 7000 did not take the examination. The allegation that a packet containing 500 answer scripts was lost has been denied. It has been stated that all answer scripts are in safe custody of the Commission. Regarding the reservation policy, it has been stated that qualifying marks were fixed at the lowest possible level of 30% keeping in view the interest of the weaker sections of the society. It has also been stated that in the list of successful candidates for reserved categories, namely Scheduled Castes and Scheduled Tribes, 61 and 101 candidates

respectively have been shown as qualified in the preliminary examination. The allegation of favouritism has been denied. A chart showing the percentage of successful candidates in the year 1991, 1992, 1993 and 1997 has been indicated in the counter, which would show that percentage of success in 1997 examination was the highest in respect of subjects English and M.I.L.

7. The first point to be decided is whether holding of preliminary examination was legal. In view of the number of candidates, we are of the opinion that the Commission has got the power of short-listing. It is the settled position of law that short-listing is permissible, which is also being done by the Union Public Service Commission. Therefore, on this point, the Commission cannot be faulted.

8. Regarding entrusting the work of conducting the preliminary examination through independent agency, we are of the opinion that the procedure adopted by the Commission is absolutely correct. Coding was done in the office of the Commission was strict supervision. Instead of sending the answer scripts to different examiners to be examined at their residence, the Commission adopted the procedure of evaluation at one centre under the Chief Co-ordinator, Chief Examiners and Examiners with long teaching experience. Ravenshaw College is a pioneer institution of the State. An undertaking was also given by the Examiners and others that none of their relations were candidates in the examination. Therefore, the procedure adopted by the Commission cannot be said to be erroneous, illegal or arbitrary.

9. Regarding other allegations, we are satisfied from the counter affidavit that those allegations have no merit. We may also bear in mind that the Commission is a constitutional body and this Court cannot sit in appeal against the procedure adopted by it provided the same is not arbitrary, illegal or otherwise invalid.

10. We may state here that though answer scripts are confidential documents, nonetheless, some were produced before another division of this Court in some other writ petitions and the Bench was satisfied that there has been proper evaluation of answers and marks secured have been reflected correctly on the top of the answer script.

11. The above being the position, the writ petitions have no merit and they are accordingly dismissed. No costs.

A. Pasayat, J.

12. I agree.