

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present- *

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. – OA-719 of 2021

Moumita Nandy -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : None.

For the State Respondent Nos. 1,4, 6 & 9 : Mr. S.N. Ray, Ld. Advocate.

For the PSC, WB : Mr. Sourav Bhattacharjee, Ld. Advocate.

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08.02.2024

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsel, the case is taken up for consideration sitting singly.

The prayer in this application is for a direction to the concerned respondent to re-evaluate the OMR Sheet of the applicant and award full marks to Question Nos. 4, 9, 41, 63, 65 and 94 of the Text Booklet series “D”.

The Public Service Commission, West Bengal had issued an advertisement for recruitment to the post of Junior Engineers (CE/ME/EE) in 2017. The list of successful candidates was published on 01.10.2019. Since the applicant did not find her name in the list of successful candidates, this application was filed before the Tribunal with the allegation that answer to certain questions were erroneously fixed by the Commission. According to the applicant, the answers to these questions would have been different.

In the reply submitted on behalf of the Commission at para (4A), the Commission refutes the allegation that the key answers to these questions are wrong. However, experts were asked to re-check the answers to which they replied through a mail, relevant portion is as under :

“After checking I have found that there will be no change in the answer key (appears to be correct or best) of question no. 4, 9,41, 63, 65 and 94 as per your letter no. 353.PSC/Con(Q) dated 7th July, 2022 for the Post of Junior Engineer’s (C/M/E) RECTT. Exam 2017.”

Mr. Bhattacharjee submits that opinion as to the correctness of any question is the sole domain of experts and in this matter, the experts have, even after rechecking, suggest that the answers as given were correct. Mr. Bhattacharjee further submits that another similar candidate who was not successful in the same exam had filed an application before this Tribunal being OA 721 of 2021. The said application was considered by the Tribunal and

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dismissed without any relief to the applicant. The relevant portion of the order dated 17.12.2021 in OA 721 of 2021 is quoted as under:

“..... Since the matter relates to correctness of key answers and as the answers are evaluated by experts and the Tribunal cannot sit on judgement on such evaluation.....”

From the above narrative, it has become clear to the Tribunal that some of the applicant's who were not successful believed the reason for their failure on the wrong answers evaluated by the Commission. They cannot be blamed for such suspicion. It is also clear that the Commission had the answers to these question numbers 4,9,41,63,65 and 94 re-evaluated by the experts. Having re-evaluated these, the experts opined that the answers appear to be correct and no change in the answer key is called for. A reference is necessary to be made to the Judgment passed by the Hon'ble Supreme Court of India reported in [Civil Appeal No. 5838 of 2018 arising out of SLP (C) No. 12472 of 2018 in U.P.P.S.C., Through its Chairman & Anr. v. Rahul Singh & Anr.]

The Apex Court has observed that *“it rather unfortunate that despite several decisions of the Court, there is interference of the Courts in the result of the examinations”*.

“The Judges are not and cannot be experts in all fields and, therefore, they must exercise great restraint and should not overstep their jurisdiction to upset the opinion of the experts. In view of the above observations, and in view of the fact that there was no allegations about any malpractice, fraud or corrupt motives, this Tribunal has come to the conclusion that it would not be proper to interfere and overrule that the expert opinion given by the experts nominated by the Commission in evaluation of the examination papers”.

It is clear now that the doubts of the candidates relating to correctness of the answer keys for the six questions have already been answered by the experts through their re-evaluation. Therefore, it is neither prudent nor necessary to pass any orders

Accordingly, finding no merit, this application is **disposed of without any orders.**

CSM

SAYEED AHMED BABA
Officiating Chairperson & Member (A)