IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12499 of 2025

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Shambhu Nath Mishra, (M), S/o- Late Harish Chandra Mishra Resident of Village- Betauna, P.S-Benipatti, District- Madhubani.

... ... Petitioner/s

Versus

1. The Union of India through the Chairman, Railway Board, New Delhi.
2. The Financial Commissioner, Railway Board, New Delhi.
3. The General Manager, East Central Railway, Hajipur.
4. The General Manager (P), East Central Railway, Hajipur.
5. The FA and CAO, E.C. Railway, Hajipur.
6. The Dy. FA and CAO, O/o the FA and CAO, E.C. Railway, Hajipur.
7. The AFA/Admn, ECR, Hajipur.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Jayant Kumar Karn, Advocate
For the Respondent/s : Mr. Vishwajeet Kumar Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
and
HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

Date : 25-11-2025

The present writ petition has been filed against the order dated 07.02.2024 passed by the learned Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the 'learned C.A.T.) in O.A. No. 050/00332/2016 whereby and whereunder the original application filed by the petitioner herein has been dismissed being devoid of merit.

2. The short facts of the case according to the petitioner are that he is employed as Sr. S.O. (A) at East Central Railway,

Hajipur. The office of the Financial Advisor and the Chief Accounts Officer (hereinafter referred to as the "FA & CAO"), Hajipur had issued a notification dated 22.05.2014 regarding holding of Limited Departmental Competitive Examination (hereinafter referred to as the "L.D.C.E.") for forming a panel of Assistant Financial Advisor (Group-B) from amongst the Group-C eligible staff of Accounts Department against 30% vacancy of the year 2010-12. The petitioner had offered his candidature to appear in the L.D.C.E. which was allowed and then he had appeared in the examination held on 23rd and 24th of August, 2014, whereafter the result was declared on 09.10.2014 but the name of the petitioner was not shown in the list of successful candidates. The petitioner was communicated *vide* letter dated 28.11.2014 that he had obtained 81.13 marks in the first paper and 96 marks in the second paper. The petitioner had then self-evaluated his own answer book as per the model answers of Paper-1 and he found that there were glaring mistakes in evaluation of the answer sheet of Paper-1, leading to the petitioner having failed in the L.D.C.E. Thereafter, the petitioner had submitted an application on 27.02.2015 before the FA & CAO, E.C.R., Hajipur explaining therein about the glaring mistakes which have occurred in evaluation of his answer book of Paper-1 and had requested for re-

evaluation of the same. The petitioner had also submitted an application on 15.04.2015 before the General Manager, E.C.R., Hajipur regarding the glaring mistakes in evaluation of his answer book of Paper-1 and had requested for re-evaluation of the same. However, since no heed was paid to the representations filed by the petitioner, he had filed the connected original application, *inter alia* praying therein for directing the respondent authorities to take a decision upon the applications filed by him as also redress his grievance regarding re-evaluation of answer book of Paper-1 of L.D.C.E. and then declare his result afresh on the basis of enhanced marks as also issue consequential order of promotion as Assistant Financial Advisor (Group-B) in Pay Band-2 against 30% quota with all consequential benefits.

3. The respondents had filed written statement before the learned C.A.T., wherein it was stated that though the petitioner had filed an application for re-evaluation of his answer book for Paper-1, however he has been informed that re-evaluation of answer sheets is not permissible in the light of the judgments rendered by the learned C.A.T., Chandigarh and other Hon'ble Courts as also there is no provision regarding re-evaluation of answer sheets. It has been further stated that the answer scripts of the petitioner were examined by the evaluating officials with due care and

diligence and since answers were required to be written in subjective manner, the evaluator being an officer of the rank of SAG, had applied his wisdom and judgment and had accordingly allotted marks against the respective answers. It has also been stated that the request of the petitioner for re-evaluation of answer sheets was turned down by the respondent authorities in light of various judgments rendered by the learned Courts, especially the one dated 25.05.2010, passed by the Hon'ble Supreme Court of India in **Civil Appeal No. 907 of 2006** ***(Himachal Pradesh Public Service Commission vs. Mukesh Thakur and Another).***

4. The learned C.A.T. by the impugned order dated 07.02.2024, considering the fact that there is no provision for re-evaluation of answer sheets in the railways as also taking into account the judgment rendered by the Hon'ble Apex Court in the case of ***Mukesh Thakur and Another*** *(supra)* has dismissed the connected original application filed by the petitioner.

5. The learned counsel for the petitioner has submitted that the observation made by the Hon'ble Apex Court in the case of ***Mukesh Thakur and Another*** *(supra),* relied upon by the learned C.A.T., in the impugned order dated 07.02.2024, does not completely bar re-evaluation and in fact a Co-ordinate Bench of the learned C.A.T., Circuit Bench Ranchi, Patna Bench, Patna by

an order dated 21.04.2015 passed in O.A. No. 773 of 2011 ***(Santosh Kumar vs. Union of India and Others)*** has directed the government authorities to appoint an expert examiner who shall verify the submissions and grievances of the applicant therein with reference to particular question and answer referred to in the representation to ensure that no improper assessment has taken place and accordingly the marks shall be revised/altered whereafter, fresh decision shall be taken by the department with regard to the eligibility/ineligibility of the applicant. Thus, it is submitted that re-evaluation of answer sheets is permissible, hence the impugned order dated 07.02.2024, passed by the learned C.A.T. in O.A. No. 050/00332/2016 is fit to be set aside.

6. *Per contra,* the Ld. counsel appearing for the respondents has submitted that there is no rule as far as the railways are concerned which provide for re-evaluation of answer sheets, hence the re-evaluation of the answer sheets of the petitioner cannot be done.

7. We have heard the learned counsel for the parties and perused the materials on record. Admittedly, the learned counsel for the petitioner has failed to show existence of any provision regarding re-evaluation in the department of railways. The law in this regard is no longer *res integra* inasmuch as the Hon'ble Apex

Court in the case of ***Mukesh Thakur and Another*** *(supra)* reported in ***(2010) 6 SCC 759*** has categorically held that in absence of any provision under the statute or statutory rules/ regulations, the Court should not generally direct re-evaluation. In fact, the Hon'ble Apex Court in a judgment rendered in the case of ***Pramod Kumar Srivastava vs. Chairman, Bihar Public Service Commission and Others,*** reported in ***(2004) 6 SCC 714*** has clearly held that in the absence of any provision for re-evaluation of answer books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for re-evaluation of his marks. In this regard, it would be apt to refer to paragraph Nos. 7 to 9 of the said judgment rendered in the case of ***Pramod Kumar Srivastava*** *(supra)* herein below:-

> *"7. We have heard the appellant (writ-petitioner) in person and learned counsel for the respondents at considerable length. The main question which arises for consideration is whether the learned Single Judge was justified in directing re-evaluation of the answer-book of the appellant in General Science paper. Under the relevant rules of the Commission, there is no provision wherein a candidate may be entitled to ask for re-evaluation of his answer-book. There is a provision for scrutiny only wherein the answer- books are seen for the purpose of checking whether all the answers given by a candidate have been examined and whether there has been any mistake in the totaling of marks of each question and noting them correctly on the first cover page of the answer-book. There is no dispute that after scrutiny no mistake was found in the marks awarded to the appellant*

in the General Science paper. In the absence of any provision for re-evaluation of answer books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for re-evaluation of his marks. This question was examined in considerable detail in ***Maharashtra State Board of Secondary and Higher Secondary Education and another v. Paritosh Bhupesh Kurmarsheth and others, AIR 1984 SC 1543****. In this case, the relevant* rules *provided for verification (scrutiny of marks) on an application made to that effect by a candidate. Some of the students filed writ petitions praying that they may be allowed to inspect the answer-books and the Board be directed to conduct re-evaluation of such of the answer-books as the petitioners may demand after inspection. The High Court held that the rule providing for verification of marks gave an implied power to the examinees to demand a disclosure and inspection and also to seek re-evaluation of the answer-books. The judgment of the High Court was set aside and it was held that in absence of a specific provision conferring a right upon an examinee to have his answer-books re-evaluated, no such direction can be issued. There is no dispute that under the relevant rule of the Commission there is no provision entitling a candidate to have his answer-books re-evaluated. In such a situation, the prayer made by the appellant in the writ petition was wholly untenable and the learned Single Judge had clearly erred in having the answer-book of the appellant re-evaluated.*

8. Adopting such a course as was done by the learned Single Judge will give rise to practical problems. Many candidates may like to take a chance and pray for re-evaluation of their answer-books. Naturally, the Court will pass orders on different dates as and when writ petitions are filed. The Commission will have to then send the copies of individual candidates to examiners for re-evaluation which is bound to take time. The examination conducted by the Commission being a competitive

examination, the declaration of final result will thus be unduly delayed and the vacancies will remain unfilled for a long time. What will happen if a candidate secures lesser marks in re-evaluation? He may come forward with a plea that the marks as originally awarded to him may be taken into consideration. The absence of clear rules on the subject may throw many problems and in the larger interest, they must be avoided.

9. Even otherwise, the manner in which the learned Single Judge had the answer-book of the appellant in General Science paper re-evaluated cannot be justified. The answer-book was not sent directly by the Court either to the Registrar of the Patna University or to the Principal of the Science College. A photocopy of the answer-book was handed-over to the standing counsel for the Patna University who returned the same to the Court after some time and a statement was made to the effect that the same had been examined by two teachers of Patna Science College. The names of the teachers were not even disclosed to the Court. The examination in question is a competitive examination where the comparative merit of a candidate has to be judged. It is, therefore, absolutely necessary that a uniform standard is applied in examining the answer-books of all the candidates. It is the specific case of the Commission that in order to achieve such an objective, a centralized system of evaluation of answer-books is adopted wherein different examiners examine the answer-books on the basis of model answers prepared by the Head Examiner with the assistance of other examiners. It was pleaded in the Letters Patent Appeal preferred by the Commission and which fact has not been disputed that the model answer was not supplied to the two teachers of the Patna Science College. There can be a variation of standard in awarding marks by different examiners. The manner in which the answer-books were got evaluated, the marks awarded therein cannot be treated as sacrosanct & consequently the direction issued by the ld. Single Judge to the Commission to treat the

marks of the appellant in General Science paper as 63 cannot be justified."

8. We would also like to refer to a judgment rendered by the Ld. Division Bench of this Court in the case of ***Ravindra Kumar Singh vs. The High Court of Judicature at Patna and Others,*** reported in ***2016 (1) PLJR 865,*** paragraph Nos. 33, 36, 37, 45, 46, 49 and 54 whereof are reproduced herein below:-

"33. In our opinion, thus, in the absence of necessary pleadings and when the writ petitioners have failed to establish that any of their rights got adversely affected because of the impugned action, no interference is possible by this Court in exercise of its power of judicial review under Article 226 of the Constitution of India.

36. In order to claim issuance of prerogative writ under Article 226 of the Constitution of India, a person, seeking such a relief, will have to plead and establish that he has been prejudicially and adversely affected by an act or omission of the State or its instrumentality. The party will have to demonstrate sufficient interest in the adjudication of the issue on the ground that because of any act or omission on the part of the authority, his rights got adversely affected.

37. In the present case, the petitioners were required to plead, demonstrate and establish that they got less marks than what they deserved on the basis of their claim of wrong framing of questions/model answers. Unless a person is able to establish discrimination, this Court is not required to invoke its extraordinary writ jurisdiction under Article 226 of the Constitution of India merely on the pleadings of an erroneous act or omission on the part of an authority.

45. Having observed, what have been indicated above, in Mukesh Thakur (supra), the Supreme Court concluded, in paragraph 19 of Mukesh Thakur's case (supra), thus:-

> *"19. In view of the above, it was not permissible for the High Court to examine the question paper and answer sheets Itself, particularly, when the Commission had assessed the inter-se merit of the candidates. If there was a discrepancy in framing the questions or evaluation of the answer, it could be for all the candidates appearing for the examination and not for respondent no. 1 only. It is a matter of chance that the High Court was examining the answer sheets relating to law. Had it been other subjects like physics, chemistry and mathematics, we are unable to understand as to whether such a course could have been adopted by the High Court."(Emphasis added)*

46. From what have been observed and held by the Supreme Court in Mukesh Thakur's case (supra), it clearly follows that if there is a discrepancy in framing of questions or evaluation of answers, it would be for all candidates appearing in an examination and not for any particular candidate that a Court cannot take upon itself the task of a statutory authority.

49. In the case of Rajesh Kumar (supra), relied upon by learned counsel for the petitioners, the Supreme Court, instead of disturbing the process of selection, had directed re-evaluation of answer sheets on the basis of the correct model answers as suggested by the experts. What was ordered to be done, under the orders of the Supreme Court in case of Rajesh Kumar (supra), has already been done, suo motu, in the present case, by the Selection and Appointment Committee of the High Court. We do not find any reason to interfere with the decision taken by the Selection and Appointment Committee in the matter of correctness or otherwise of the questions and model answers, inasmuch as we cannot sit, in appeal, over such a decision in the present proceeding under Article 226 of the Constitution of India.

54. Situated thus, having considered the facts and circumstances of the present case and the submissions advanced on behalf of the parties, we arrive at the following conclusions:-

(i) In the absence of any pleading that these petitioners raised any objection/grievance with respect to wrong framing of Question Nos. 1, 14, 39, 40, 72, 81 and 85, at any stage prior to publication of the revised result on 4.5.2015, their plea to challenge the revised list on the basis of purported wrong framing of those questions cannot be entertained, when they have taken a chance of their success on the basis of the questions and model answers so framed. This is for the reason that the screening/preliminary test was held on 22.3.2015. Had they found those questions to be defective making them incapable to deal with the questions, while writing the test, they could have, immediately, pointed out to the Registrar General of the High Court or any other competent authority in this regard. They, however, took a chance till the result was published on 8.4.2015 and after model answers were uploaded on the website of the High Court on 4.5.2015. There is no pleading that even thereafter, these petitioners raised any objection as regards wrong framing of these questions. It was only after revised result was published by the High Court on 25.5.2015 that the petitioners, after having become unsuccessful, have challenged the revised result. In such situation, thus, the petitioners cannot, in a proceeding under Article 226 of the Constitution of India, be permitted to do hair-splitting of the questions and model answers in order to take a plea that the questions/model answers were wrongly framed.

(ii) There is no specific pleading as regards any prejudice having caused to petitioners as discussed above, because of wrong framing of questions/wrong model answers as asserted by them, which adversely affected the evaluation of their actual performance in the screening/preliminary test. As the multiple-choice

type question papers and model answers were available to them, they could have taken the plea, with reference to particular question or questions that they were awarded less marks or no marks, because of such discrepancy, adversely affecting their rights. Pleadings, in this regard, in all writ applications, are general and vague in nature. In the absence of specific plea of real prejudice having been caused to the petitioners, their grievance to this effect is not sustainable.

(iii) In view of the Supreme Court's decision in the case of Mukesh Thakur (supra) and other judicial pronouncements as noted above, we are of the considered view that while exercising power of judicial review available under Article 226 of the Constitution of India, it is not permissible for this Court to take upon itself the task of Examiner/Selection Board and examine discrepancies and inconsistencies in the question paper and evaluation thereof, law to this effect has been laid down in most clear and unambiguous terms by the Supreme Court in the said decision, which was not brought to the notice of the Division Bench of this Court in case of Kumod Kumar (supra).

(iv) No writ, in the nature of writ of mandamus, can be issued for lowering down the cut-off marks of screening/preliminary test in breach of the statutory prescription under sub-clause (iii) of Clause 5 of Rule 5 of the Bihar Superior Judicial Service Rules, 1951."

9. We would also like to refer to a judgment rendered by the Hon'ble Apex Court in the case of ***Ran Vijay Singh and Others vs. State of Uttar Pradesh and Others,*** reported in **(2018) 2 SCC 357,** para nos. 31 and 32 whereof are reproduced herein below:-

"31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination

authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse – exclude the suspect or offending question.

32. It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is interference by the courts in the result of examinations. This places the examination authorities in an unenviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. The enormity of the task might reveal some lapse at a later stage, but the court must consider the internal checks and balances put in place by the examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a classic example of the consequence of such interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination whether they have passed or not; whether their result will be approved or disapproved by the court, whether they will get admission in a college or university or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of

uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers."

10. Yet another judgment which we would like to refer to on the issue under consideration is the one rendered by the Hon'ble Apex Court in the case of ***Vikesh Kumar Gupta and Another vs. State of Rajasthan and Others,*** reported in **(2021) 2 SCC 309,** paragraph Nos. 14 to 17 whereof are reproduced herein below:-

"14. Though re-evaluation can be directed if rules permit, this Court has deprecated the practice of re-evaluation and scrutiny of the questions by the courts which lack expertise in academic matters. It is not possible for the High Court to examine the question papers and answer sheets itself, particularly when the Commission has assessed the inter se merit of the candidates (H.P. Public Service Commission v. Mukesh Thakur). Courts have to show deference and consideration to the recommendation of the expert committee who have the expertise to evaluate and make recommendations (see Basavalah v. H.L. Ramesh).

15. Examining the scope of judicial review with regards to re-evaluation of answer sheets, this Court in Ran Vijay Singh v. State of U.P. held that the court should not re-evaluate or scrutinise the answer sheets of a candidate as it has no expertise in the matters and the academic matters are best left to academics. This Court in the said Judgment further held as follows: (Ran Vijay Singh case, SCC pp. 369-70, paras 31-32)

"……(already quoted in paragraph No. 9 herein above)"

16. In view of the above law laid down by this Court, it was not open to the Division Bench to have examined the correctness of the questions and the answer key to come

to a conclusion different from that of the expert committee in its judgment dated 12-3-20193 Reliance was placed by the appellants on Richal v. Rajasthan Public Service Commission In the said judgment, this Court interfered with the selection process only after obtaining the opinion of an expert committee but did not enter into the correctness of the questions and answers by itself. Therefore, the said judgment is not relevant for adjudication of the dispute in this case.

17. A perusal of the above judgments would make it clear that courts should be very slow in interfering with expert opinion in academic matters. In any event, assessment of the questions by the courts itself to arrive at correct answers is not permissible. The delay public posts is mainly caused due to pendency of cases challenging selections pending in courts for a long period of time. The cascading effect of delay in appointments is the continuance of those appointed on temporary basis and their claims for regularisation. The other consequence resulting from delayed appointments to public posts is the serious damage caused to administration due to lack of sufficient personnel.

11. It would be apposite to refer to yet another judgment rendered by the Hon'ble Apex Court in the case of ***Dr. NTR University of Health Sciences vs. Dr. Yerra Trinadh and Others,*** reported in **(2022) 18 SCC 716,** paragraph Nos. 14 to 16 whereof are reproduced herein below:-

"14. Applying the law laid down by this Court in the aforesaid decisions to the facts and circumstances of the case on hand, we are of the opinion that the High Court was not at all justified in calling the record of the answer scripts and then to satisfy whether there was a need for re- evaluation or not. As reported, the High Courts are calling for the answer scripts/sheets for satisfying

whether there is a need for re-evaluation or not and thereafter orders/directs re-evaluation, which is wholly impermissible. Such a practice of calling for answer scripts/answer sheets and thereafter to order re-evaluation and that too in absence of any specific provision in the relevant rules for re-evaluation and that too while exercising powers under Article 226 of the Constitution of India is disapproved.

15. Even otherwise, in the present case, the University has adopted the digital evaluation which has been subsequently modified/improved and the deficiencies have been removed, which has now been approved by the High Court in the recent decision in Writ Petition No. 15865/2022. The digital evaluation process is reported to be scrupulously followed by the University. From the affidavit filed on behalf of the University on use of digital evaluation, it appears that all precautions are being taken to have the accurate evaluation digitally. There are specific instructions and trainings to the examiners while conducting digital evaluation. It is reported that the faculty has utilised the updated software by using the tools and annotations incorporated in the software adopted by the University. In any case, in absence of any regulation for re-evaluation of the answer scripts, either in the MCI rules or in the University Rules, the High Court is not justified in ordering re-evaluation of the answer scripts. As observed and held by this Court in the case of Ran Vijay Singh (supra) that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet.

16. In view of the above and for the reasons stated above, the common judgment and order passed by the learned Single Judge ordering re-evaluation of the answer scripts, confirmed by the Division Bench by the impugned common judgment and order, is unsustainable. However, as observed hereinabove, as the results of the original writ petitioners after re-evaluation or appearing in the

supplementary examination have been declared, while quashing and setting aside the impugned common judgments and orders passed by the learned Single Judge as well as Division Bench of the High Court, the same shall not be affected and/or disturbed. The impugned common judgments and orders passed by the learned Single Judge as well as Division Bench ordering re-evaluation of the answer scripts in absence of any such provision in the relevant rules are hereby quashed and set aside. However, as observed hereinabove, the same shall not affect the declaration of the results of the original writ petitioners on re-evaluation or appearing in the supplementary examination."

"underlining mine"

12. Having regard to the facts and circumstances of the case and the law laid down by the Hon'ble Apex Court in a catena of judgments referred to hereinabove in the preceding paragraphs, we find that in absence of any rule/regulation/provision for re-evaluation of the answer sheets, no direction can be issued for re-evaluation of the answer sheets of the petitioner, hence we do not find any infirmity in the impugned order dated 7.2.2024 passed by the learned C.A.T. in O.A. No. 050/00332/2016. Consequently, the present writ petition stands dismissed being devoid of any merit.

(Mohit Kumar Shah, J)

(Soni Shrivastava, J)

GAURAV S../-

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