

GAHC010119082015



2024:GAU-AS:11729

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4476/2015

PRASANTA BHUYAN S/O SRI RAJANI BHUYAN R/O VILL- BOGINADI,P.O.
BOGINADI,P.S. BOGINADI, DIST. LAKHIMPUR, ASSAM.

VERSUS

THE STATE OF ASSAM and 2 ORS REP. BY THE CHIEF SECRETARY TO THE
GOVT. OF ASSAM, DISPUR, GUWAHATI- 781006.

2:THE ASSAM PUBLIC SERVICE COMMISSION APSC JAWAHAR NAGAR
KHANAPARA DIST. KAMRUP M GUWAHATI- 781022 ASSAM
REP. BY ITS CHAIRMAN.

3:THE STATE PUBLIC INFORMATION OFFICER
ASSAM PUBLIC SERVICE COMMISSION JAWAHAR NAGAR KHANAPARA
DIST. KAMRUP M GUWAHATI- 781022 ASSAM

Advocate for the Petitioner : MR.P P BORTHAKUR, MR. A CHAMUAH,MR.U SAIKIA,MR.K
OJHA

Advocate for the Respondent : MR.C BARUAHR2 and3, MR R DHAR SC, WPT & BC,SC,
APSC,,GA, ASSAM(R1)

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Date of hearing : 27.11.2024

Date of Judgment : 27.11.2024

Judgment & order(Oral)

Heard Mr. A. Chamuah, learned counsel, appearing on behalf of the petitioner. Also heard Mr. D. Bora, learned Government Advocate, appearing on behalf of respondent No. 1; and Mr. T. J. Mahanta, learned senior counsel, assisted by Mr. P. Sarma, learned counsel, appearing on behalf of respondents No. 2 & 3/Assam Public Service Commission (APSC).

2. The petitioner, in the present proceeding, has prayed for the following reliefs:

“In the premises aforesaid, it is most respectfully prayed that Your Lordship may be pleased to admit this petition, call for records, issue a Rule, calling upon the respondents to show cause as to why a writ in the nature of 'Mandamus' directing the respondents to provide the answer scripts of the petitioner, shall not be issued and upon perusal of the records and upon hearing the parties be pleased to make the rule absolute and / or pass any other order/ orders/ directions (s) or writ (s) as to this Hon'ble Court may deem fit and proper so as to grant adequate relief to the petitioner in the interest of justice and/or following reliefs;

1. Produce all records as to selection process and method of evaluation of Answer Scripts more particularly the General Studies paper.

2. Produce the answer scripts of the petitioner before this Hon'ble Court and upon a thorough assessment by this Hon'ble Court, the said answer scripts may be revaluated by an expert Committee under the surveillance of this Hon'ble Court.

3. If after the revaluation, the total marks obtained by the petitioner goes up then the writ of 'Mandamus' may kindly be issue directing the respondent No.2 to publish afresh Selection list reflecting the proper position of the petitioner.

4. And, therefore, the Government shall pass consequential order(s).

-AND-

In the interim, a post in the rank of Assam Civil Service shall be kept vacant until further order.”

3. A perusal of the reliefs so prayed for by the petitioner, herein, would go to reveal that the petitioner has sought for a direction upon the respondent authorities to provide him, his answer scripts of the Combined Competitive Examination, 2013, conducted by the Assam Public Service Commission (APSC) in pursuance of the advertisement, dated 11.08.2013.

4. The petitioner, herein, has further prayed that his answer scripts on being produced, this Court would assess the same and have it re-evaluated by an expert committee under its supervision. In the event, the marks of the petitioner on such re-evaluation is found to be higher, appropriate direction was prayed to be issued for publication of a fresh select list reflecting therein, the proper position of the petitioner, herein.

5. The petitioner, herein, in pursuance of the advertisement, dated 11.08.2013, issued by the Assam Public Service Commission(APSC) inviting applications for appearing in the Combined Competitive Examination, 2013, for filling up the various vacant posts in the services so involved including the Assam Public Civil Services-Jr. Grade; the petitioner had submitted his application. The petitioner on successfully clearing the preliminary examination, as conducted, had appeared in the Main Examination held w.e.f. 01.07.2014 to 27.07.2015. Upon clearing the Main Examination by the petitioner and being placed within the merit position so mandated, he was called for attending the viva voce component of the selection process held on 12.03.2015. On conclusion of the said selection process; a select list came to be so published and therein, the petitioner, on the basis of the merit so assessed in his case, was selected for appointment against the post of Assistant Employment Officer.

6. The petitioner being aggrieved by the merit position so obtained by him in the said selection process, and also contending that he was entitled in view of his performance in the selection process to be allotted to a higher service; submitted RTI applications before the authorities of the Assam Public Service Commission(APSC) seeking his answer scripts. It is projected in the writ petition that the said answer scripts were not furnished to the petitioner, herein, however, he was permitted to peruse the same.

7. The petitioner, herein, has contended that on perusal of his answer scripts, it was found that the evaluation, thereof, was not done in the manner required and accordingly, the marks as given to him, were not so given on a proper evaluation of the answers so given by the petitioner to the various questions in the papers involved.

8. Accordingly, being aggrieved; the petitioner has instituted the present proceeding with the prayers as noticed hereinabove.

9. Mr. Chamuah, learned counsel for the petitioner, has submitted that the Assam Public Service Commission(APSC) authorities had casually evaluated the answer scripts of the petitioner, herein, in his Main Examination of the Combined Competitive Examination, 2013, and many questions answered by the petitioner, which is contended to be correct, were left unmarked.

10. Accordingly, Mr. Chamuah, learned counsel, has submitted that the answer scripts of the petitioner, would mandate a re-evaluation and basing on such re-evaluation; his merit position in the said selection process, would be required to be properly assessed and accordingly, a direction would be called upon to allot to the petitioner, a service higher than that he was so allotted on conclusion of the selection process so involved.

11. Mr. Mahanta, learned senior counsel, appearing for the respondent Assam Public Service Commission(APSC); at the outset, by referring to the affidavit-in-opposition filed in the matter, has submitted that the answer scripts of the petitioner of the Combined Competitive(Main) Examination, 2013, were furnished to him through his Messenger by the Assam Public Service Commission(APSC) on 19.08.2015. However, the petitioner has not brought the same on record and made submissions thereon. It is further contended by the learned senior counsel that the contentions made in this connection in the affidavit-in-opposition so filed by the respondent authorities, has not been disputed by the petitioner, herein, by way of filing an affidavit-in-reply thereto.

12. Mr. Mahanta, learned senior counsel, has also submitted that the present proceeding has been instituted by the petitioner on 31.07.2015, and by the said time; the selection process had already been concluded and the results thereof, also declared by the Assam Public Service Commission(APSC).

13. Mr. Mahanta, learned senior counsel, has further submitted that in pursuance of the declaration of the results of the Combined Competitive Examination, 2013, by the Assam Public Service Commission(APSC); the candidates so selected were appointed by the competent authority of the Government of Assam against their respective posts, and further, the selected candidates had already joined their respective services. It is also submitted by Mr. Mahanta, that none of the selected candidates have been arrayed as party respondents in the present writ petition by the petitioner, herein.

14. Mr. Mahanta, learned senior counsel, has further submitted that in terms of the provisions of the Assam Public Service Commission(Procedure & Conduct of Business) Rules, 2010; re-evaluation of the answer scripts of a Combined Competitive Examination, is barred.

15. I have heard the learned counsels appearing for the parties and also perused the materials available on record.

16. The reliefs as sought for in the present proceeding, is to the effect of causing a re-evaluation of his answer scripts of the Combined Competitive(Main) Examination, 2013.

17. It is seen that the Assam Public Service Commission (APSC) authorities

by way of filing an affidavit-in-opposition in the matter, had categorically contended that it is not permissible for the Commission to undertake a review or re-evaluation of the answer scripts since as per Rule 70(IV) of the Assam Public Service Commission (Procedure & Conduct of Business) Rules, 2010, there exists no provision to entertain any request for re-examination of answer scripts from candidates or from any other person.

18. The affidavit-in-opposition filed by the respondent Assam Public Service Commission (APSC) clearly indicates that the answer scripts of the petitioner were furnished to him on 19.08.2015, albeit, during the pendency of the present proceeding. The said answer scripts have not been brought on record by the petitioner, herein. Further, the provisions of the said Rules of 2010, having barred the re-evaluation/re-examination of the answer scripts of a candidate; such prayer of the petitioner, herein, would not be permissible to be considered by this Court.

19. In addition to the above position; the contention so made by the petitioner, herein, in this writ petition with regard to the marking of the petitioner in his answer scripts of the Combined Competitive (Main) Examination, 2013, are vague to the core of it and accordingly, the same would not mandate a consideration, on merit.

20. In view of the above position and also given the relief as sought for by the petitioner, herein; his grievance if to be considered by this Court at the belated stage, would require this Court to put the clock back and direct the Assam Public Service Commission (APSC) authorities to again revive the Combined Competitive (Main) Examination, 2013, for the petitioner, herein, which, admittedly, is not permissible at this distant point of time.

21. In view of the conclusions as reached by this Court hereinabove and the fact that the selection process was concluded long back and persons so selected were also appointed to their respective services; this Court at this belated stage, would not consider issuing directions to the Assam Public Service Commission(APSC) authorities to re-evaluate the answer scripts of the petitioner, herein.

22. Accordingly, this Court does not find any merit in the contentions advanced by the petitioner in this writ petition and holds that this writ petition is bereft of any merit and consequently, the writ petition is hereby dismissed. However, there shall be no order as to costs.

JUDGE

Comparing Assistant