

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA,
MIZORAM AND ARUNACHAL PRADESH)

ITANAGAR BENCH

WP(C) NO. 35(AP)2011

Shri Taje Maying,
Aged about 28 years,
S/o Late Tapor Maying,
Village-Lingram,
P.O. L.P.S.-Taliha
District - Upper Subansiri
Arunachal Pradesh.

.....Petitioner

- Versus -

1. The State of Arunachal Pradesh represented by the **Chief Secretary**, Government of Arunachal Pradesh, Itanagar.
2. The **Arunachal Pradesh Public Service Commission**, represented by the **Chairman**, Arunachal Pradesh Public Service Commission.
3. The **Secretary, Arunachal Pradesh Public Service Commission**, Itanagar.

.....Respondents

Advocate for the petitioner :- Mr. P. Bui
Mr. S. Tapin
Mr. T. Nima
Mr. X. Gyati,

Advocates for the respondents :- Mr. N. Tagia,
Standing counsel for APPSC.

BEFORE
THE HON'BLE MR. JUSTICE P. K. SAIKIA

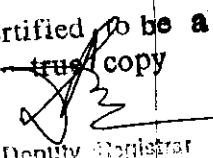
Date of hearing :- **29.08.2012**

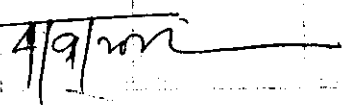
Date of Judgment & order :- **04.09.2012**

JUDGMENT AND ORDER(CAV)

Heard Mr. Subu Tapin, learned counsel appearing on behalf of the petitioner. Also heard Mr. Nani Tagia, learned standing counsel

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for Respondents No. 2 and 3, Arunachal Pradesh Public Service Commission (APPSC).

2. In the instant proceeding, the petitioner Mr. Taje Maying, has approached this Court, seeking a direction requiring the Respondent No. 2(Arunachal Pradesh Public Service Commission, represented by its Chairman), to re-evaluate the answer scripts specially the Question No. 1(a) of the General Studies Paper-II, Question No. 5(a) and 5(c) of the Sociology Paper-II, and Question No. 6 [A](ix), B(x) and D(ii) of the General English Paper-I, and also to award all the consequential benefits to him, if on re-evaluation, he is found entitled to such benefits.

3. The facts necessary for disposal of this proceeding, in brief, are that the petitioner, aforesaid, being eligible, participated in Arunachal Pradesh Public Service Combined Competitive Examination (APPSCCE) held in the year 2010 with Sociology, as an one of the optional papers in addition to other compulsory papers which includes General Studies and General English.

4. In the result, dated 02.12.2010, declared by the Commission, the name of the petitioner did not appear in the Select List. Being aggrieved on having not found his name in the list of selected candidates, the petitioner approached the Respondent No. 2 requesting the later to render necessary permission to re-examine his answer scripts but the same was turned down.

5. The petitioner, thereafter, filed an application under RTI Act, seeking answer scripts of all the 51 selected candidates as well as his answer scripts. On perusal of his answer scripts, he found that with

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regard to the answers, he had given against Question No. 5(a) and 5(c) of the Sociology Paper-II, carrying 20 marks each, the Second Evaluator has not awarded any marks although the First Evaluator gave him 14 marks against each of the Questions, aforesaid.

6. In respect of Question No. 6 [A](ix), B(x) and D(ii) of the General English Paper-I, and Question No. 3(B), 4(A) (B) and (D) and Question No. 8(c) of the General Studies Paper-II, one of the two Evaluators have awarded him more marks whereas the other Evaluator awarded him Zero marks. In respect of Question No. 13 of the General Studies Paper-II, both Evaluators have awarded him Zero marks whereas the answer he had given against the said Question was quite correct as is found evident from the answer scripts of other successful candidates.

7. It is the specific claim of the petitioner that one Ms. June Ringu who was selected for absorption against the post in A.P.P.S., has secured 889.75 marks against 888.25 marks secured by him. Thus, the difference between him and the last selected candidate was 1.5 marks only. Having detected the anomalies aforesaid, he approached the respondent No.2 with representation dated 19.01.2011 praying for evaluation of answer scripts in connection with General English Paper-I, General Studies Paper-II and Sociology Paper-II.

8. However, the respondent authorities did not pay any heed to his requests and grievances. Having found no other alternative and having felt let down by the Respondent No. 2, he approached this Court under Article 226 of the Constitution of India seeking appropriate reliefs, as aforesaid. According to the writ petitioner, the error on the part of the Evaluators, have doomed his future because if the Evaluators had done their duties with sincerity, he would have secured more marks and in that event, he might have been selected

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against any of the posts, offered by the Arunachal Pradesh Public Service Commission (APPSC). 84

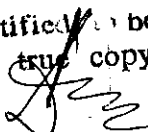
9. Thus, according to him, the mistake on the part of the Commission not only shattered his future but has done irretrievable loss and damage to him. He, therefore, asked this Court to issue appropriate writ requiring the Respondent No. 2 to re-evaluate the answer scripts aforesaid and in the event of re-evaluation of the answer scripts, if he secures more marks, then necessary direction may be issued by this Court to put him in the place where he ought to have been, had the Evaluators not committed any mistakes aforesaid.

10. The Respondents No. 2, the Arunachal Pradesh Public Service Commission (APPSC) and Respondents No. 3, Secretary, Arunachal Pradesh Public Service Commission, have filed a joint affidavit-in-opposition. In the said affidavit, the answering respondents have stated that the Commission never denied any requests made by the instant petitioner for access to his answer scripts. It is the specific claim of the Commission that for variety of reasons, other PSCs of the country and even the U.P.S.C. do not furnish evaluated answer scripts even when requests are made through RTI Act.

11. But the respondent APPSC discloses evaluated answer scripts to the genuine candidates to maintain absolute transparency. With regard to the representation, aforesaid, the Commission has stated that the petitioner approached it for re-evaluation of the answer scripts of General English Paper-I, General Studies Paper-II and Sociology Paper-II, and on the basis of the said representation,

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necessary information was communicated to the petitioner vide its letter dated 15.02.2011.

12. Though the petitioner has alleged that answer scripts of subject more than one were not properly evaluated, yet, in his argument, learned counsel for the petitioner has confined his allegation only against the evaluation done in respect of Answers No. 5(a) and 5(c) of the Sociology Paper-II, each carrying 20 marks only. Being so, I would consider whether the Evaluator committed any mistake/error in evaluating the answers rendered against Answers No. 5(a) and (c) of the paper aforesaid. In that connection, learned counsel for the petitioner has referred me to the information found available in Page No. 42 and 44 of the writ petition.

13. On perusal of the aforesaid pages in the writ petition, particularly Page No. 42, I have found that though the First Evaluator gave 14 marks against each of the answers, rendered against Question No. 5, the Second Evaluator did not give any marks against any of those Questions. On the other hand, he gave 18½ marks against Question No. 8 although the petitioner made no attempt to answer the Question No.8. The answer scripts reveal that the petitioner, in fact, answered Questions No. 5(a) and 5(c) for which the First Evaluator, as stated above, gave the petitioner 14 marks against each of the questions, out of 20 marks allotted to each of those questions.

14. Thus, it transpires that there is a mistake apparent on the face of the record, committed by the Second Evaluator as he did not properly evaluate the answers with regard to Questions No. 5(a) and 5(c). The fact that the Second Evaluator gave composite mark for the two questions although he was supposed to give marks separately for

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each of the questions answered makes it amply clear that the Second Evaluator did not properly evaluate the answers rendered in respect of question No.5 (a) and 5(c) of the Sociology Paper-II.

15. The above anomalies are all testimony to the fact that the answers written against the Question No. 5(a) and 5(c) need to be re-evaluated by another Evaluator. In the event of such evaluation, if the petitioner stood qualified, the Respondent No. 2, Chairman, Arunachal Pradesh Public Service Commission (APPSC), Itanagar, shall put him in a place in the list of the selected candidates which he would have secured had there been no mistake on the part of Second Evaluator in evaluating the answers against the questions aforesaid and accordingly, recommend the case of the petitioner to the State Government.

16. The entire process starting from re-evaluation of the answers against the Questions No.5(a) and 5(c) of the Sociology Paper-II by a newly appointed Second Evaluator up to the recommendation, if any, in the event of the petitioner being found qualified for the same, shall be completed within a period of 60 days from the date of receipt of a certified copy of this order.

17. With the above directions, this writ petition stands allowed to the extent indicated above.

18. There shall be however no order as to costs.

Sd/- P.K. Saikia
JUDGE

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