

ORDER SHEET
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 38 of 2022

Kingsuk Ghosh -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. S. Dutta, Ld. Advocate.
For the State Respondents : Mr. G.P. Banerjee, Ld. Advocate.
For the PSC, WB : Mr. Sourav Bhattacharjee, Ld. Advocate.

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02.04.2025

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.

Supplementary affidavit filed by the applicant be kept on record.

Mr. Bhattacharjee, learned counsel for the Commission presents a copy of memo. no. 353 dated 07.07.2022, be kept on record.

The applicant has prayed for a direction to the respondent authorities, West Bengal Public Service Commission, to re-evaluate the marks obtained by the applicant in the Examination for Junior Engineers (Civil/Mechanical/Electrical), 2017. After completion of the selection process, the Commission published the Merit List on 01.10.2019. The applicant, whose aggregate score was 149.33 was not considered as a successful candidate in which the last successful candidate under the UR category had scored 151.33. Through an RTI reply, the applicant noted that the Commission had marked his answers to questions no. 1, 9, 65 and 94 as incorrect. According to the applicant, it was erroneous on part of the Commission to decide such answers as incorrect. After referring to several textbooks, the applicant came to the conclusion that his answers were correct and rather the answers given by the Commission were wrong. It is his expectation that if the answers given to the above four questions are considered correct, his aggregate score will be higher and thus, entitled for being recommended for the post of Junior Engineer.

The Commission in its reply, however, insisted that the answers fixed by the Commission were correct and a re-evaluation by its expert confirmed the same. Such confirmation is supported by copy of memo from the Commission to Dr. Sankar Chakraborty, Paper Setter and domain expert.

Mr. Dutta, learned counsel appearing on behalf of the applicant has presented the following documents/textbooks in support of the applicant's claim that the answers he chose against the following questions were correct. The dispute is related to the answers to the question nos. 1, 9, 65 and 94 in the Question Booklet "D" Series in the examination conducted by the West Bengal Public Service Commission for the post of Junior Engineers Examination (Civil), 2017.

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The answers given by the applicant compared to the Commission's answer are shown below in a tabular form.

Sl. No.	Question No.	Answer given by the applicant	Answer fixed by the Commission	Answers given by the applicant based on the following sources.
01.	1	C	D	Indian Standard High Strength Deformed Steel Bars and Wires for Concrete Reinforcement Specification (Fourth Revision). Bureau of Indian Standards. Indian Standard Mild Steel and Medium Tensile Steel Bars and Hard Drawn Steel Wire for Concrete Reinforcement.
02.	9	B	A	Strength of Materials (Mechanics of Solids) SI Units. Author – R.S. Khurmi. Published by S. Chand (Page No. 93) .
03.	65	C	B	Indian Standard – Plain and Reinforced Concrete – Code of Practice (Fourth Revision). Published by Bureau of Indian Standards (Page No. 25).
04.	94	B	C	Textbook of Soil Mechanics and Foundation Engineering. Author – V.N.S. Murthy. Published by CBS Publishers and Distributors Pvt. Ltd. (Page No. 81). Soil Mechanics and Foundations. Author – Dr. B.C. Punmia, Ashok Kumar Jain, Arun Kumar Jain. Published by Laxmi Publications (P) Ltd. (Page No. 58).

Mr. Sourav Bhattacharjee, learned counsel relying on the Commission's Reply and the expert's opinion is emphatic in his submission that the answers selected by the Commission, even after re-evaluation stands correct and no change has been found. He has also submitted that in the light of the Judgment of Supreme Court in "Rahul Singh v. UPPSC" the role of this Tribunal is very limited.

On matters relating to re-evaluation of answers and its correctness, the Tribunal is well aware of its limitations. The quoted judgment in "*Kanpur University v. Samir Gupta*" reported in (1983) 4 SCC 309, a relevant part is as cited :-

"We agree that the key answer should be assumed to be correct unless it is proved to be wrong and that it should not be held to be wrong by an inferential process of reasoning or by a process of rationalisation. It must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of men well-versed in the particular subject would regard as correct. The contention of the University is falsified in this case by a large number of acknowledged textbooks, which are commonly read by students in U.P. Those textbooks leave no room for doubt that the answer given by the students is correct and the key answer is incorrect."

"The key answers prepared by the paper-setter or the examining body

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is presumed to have been prepared after due deliberations. To err is human. There are various factors which may lead to framing of the incorrect key answers. The publication of key answers is a step to achieve transparency and to give an opportunity to candidates to assess the correctness of their answers. An opportunity to file objections against the key answers uploaded by examining body is a step to achieve fairness and perfection in the process. The objections to the key answers are to be examined by the experts and thereafter corrective measures, if any, should be taken by the examining body.”

Although, this Tribunal is inclined to agree with the decision of the Commission and confirmed by the expert during re-evaluation, but after examination of the textbooks, a doubt has crept in the mind of this Tribunal and therefore, giving benefit of such doubt, it is inclined to believe that the contention of the applicant based on these textbooks may have some element of truth. The Tribunal has not formed any opinion relating to the decision of the expert but in all fairness and with equity in mind, it is felt essential that an expert ought to re-evaluate the answers to these questions in view of the text books referred to by the applicant. After all, one more re-evaluation with an open mind will not do any harm. The Tribunal is also aware that in the past, the Commission, after re-evaluation found contention of the candidates to be correct and as a result, suitable marks were given to them by this Commission. Such instances were observed by this Tribunal in two applications – OA 305 of 2022 (Swati Ghosh v. The State of West Bengal & Others) and OA 458 of 2022 (Sagnik Datta v. The State of West Bengal & Others).

Therefore, with the above observation, it directs the respondent no. 1, Secretary of the Commission to have the re-evaluation of the answers given by the applicant for questions no. 1, 9, 65 and 94 be done by a different expert, who had not evaluated these questions before. Such re-evaluation be completed within 8 (eight) weeks from the date of communication of this order and its outcome be communicated to the applicant within 2 (two) weeks thereof.

Accordingly, this application is **disposed of**.

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SAYEED AHMED BABA
Officiating Chairperson & Member (A)