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Court : Allahabad

Decided On : Aug-16-2001

Reported in : 2001(4)AWC2805; (2001)3UPLBEC2310

Judge : S.R. Singh and ;D.R. Chaudhary, JJ.

Acts : Uttar Pradesh State Public Service Commission (Regulation of Procedure) Act, 1985 - Sections 10 and 10(3)

Appeal No. : C.M.W.P. Nos. 26323 of 2001 with 17 other writ petitions

Appellant : Sumit Kumar and ors.

Respondent : Uttar Pradesh Public Service Commission, Allahabad and ors.

Advocate for Def. : B.N. Singh, Adv.

Advocate for Pet/Ap. : Vivek Prasad Mathur, Adv.

Disposition : Petitions dismissed

Judgement :

S.R. Singh, J.

1. The petitioners in this bunch of writ petitions applied for and appeared in the U. P. Combined State/Subordinate Services (Pre) Examination, 2001. On the declaration of result on 28.6.2001, they found themselves to have failed to succeed for the main examination. The petitioners who claim to have brilliant academic record have now approached this Court for issuance of writ in the nature of mandamus directing the respondent the U. P. Public Service Commission to produce the record of the U. P. Combined State/Subordinate Service (Pre) Examination, 2001, and upon evaluation of their answer sheets, direct the Commission to treat them as successful candidates entitled to appear in the main examination.

2. We have had heard counsel appearing for the petitioners in their respective cases and Sri B. N. Singh representing the U. P. Public Service Commission as well as learned standing counsel representing the State. We have also perused the answer sheets of some of the petitioners particularly those relating to the optional subject of History in view of the allegations made in the writ petition that the answer given by candidates, though correct were not evaluated. Learned counsel, particularly Sri V. P. Mathur appearing for petitioners in some of the writ petitions, tried to assail the result of the impugned examination basically on the ground that scaling system adopted by the Commission is arbitrary being based on no rational principles and, therefore, proceeds the submission, the result of the entire examination is vitiated. Learned counsel appearing for the Commission, on the other hand, submitted that there was no mistake in evaluation of the answer sheets and the scaling system adopted by the Commission is based on scientific formula evolved for the purpose of ensuring due representation of candidates from different subjects or branches of study. Learned counsel appearing for the Commission further submits that it is not for this Court to re-evaluate the answer sheets and supplant the conclusions arrived at by the Commission by its own conclusion. The decision of the examining body about the correctness or otherwise, it has been submitted by the counsel, is based on the answers supplied by the experts of the concerned subjects and the evaluation of the answer sheets is done with the help of two computers. In the event of any difference, answer sheets are checked manually. Learned counsel has produced the formula on the basis of which the scaling is done by the Commission.

3. From the short counter-affidavit filed on behalf of the Commission, it would appear that the petitioners stood lower in merit, i.e., to say they failed to come up to the desired level of performance so as to secure a position within the range of cut-off point decided by the Commission, i.e., 15 times the number of vacancies in the respective categories. Having given our anxious consideration to the submissions made across the Bar, we veer around the view that the petitioners have failed to make out a case for interference by this Court. The conduct of the business of the Commission is regulated by the Uttar Pradesh State Public Service Commission (Regulation of Procedure) Act, 1985 (in short the Act). Section 10 of the Act which provides for extension and moderation of question papers reads as under :

'10. (1) Every question paper shall be set by the three different paper setters, who shall not belong to the same place.

(2) Sealed question papers received from paper sellers shall be kept in the custody of the Controller of Examination.

(3) The sealed envelopes, containing question papers received from the three paper setters, shall be handed over to the concerned moderators against a receipt.

(4) The Moderators shall moderate all the three question papers, place them in separate covers under their seal, without making any mark of identification on the cover and hand them over to the Controller of Examinations or his nominee against a receipt.

(5) The Controller of Examinations shall choose any of the moderated question papers of a subject without opening the sealed covers and send it as such to the press, which shall be responsible for printing the question papers including the proof reading, and for preparing packets of question papers for all examination centres under Its seal. In accordance with information furnished by the Controller of Examinations.

(6) The press shall be responsible for maintaining the secrecy of the question papers, and the Controller of Examinations shall issue necessary directions and take necessary precautions to ensure such secrecy.'

4. So far as evaluation of the answer sheets is concerned, suffice it to say that it is not for this Court to take upon itself the task of evaluating the correctness of the answers. In fact, this Court cannot sit in appeal over the decision of the experts of the subject concerned. The practice in vogue in the Commission is such that there is no likelihood of any error in evaluation of the answer sheets. The preliminary examination is held with a view to minimising the number of candidates for main examination. Objective type of questions are asked and each question contains four answers (A), (B), (C) and (D), only one of which is the correct answer. The candidates are required to choose one of the four options. The choice is indicated by blackening on one of the four options (A), (B), (C) and (D) with a pencil. According to the practice in vogue, the Commission invites 40 questions each together with their answers from about 400-500 questions/answers in each subject in sealed cover and, thereafter, the standard of the questions and correctness of answers so received are again examined by four-five different experts of the concerned subjects. Some of the questions are eliminated in the process and the remaining questions and their answers are again judged and moderated by another team of two or three different experts in accordance with Section 10(3) of the Act aforesaid and three sets of 120 questions in the optional subjects and 150 questions in General Studies together with the answers given by the experts of the concerned subjects prepared and kept in sealed cover are then handed over by the experts to the Controller of Examination. It is for the Controller of the Examination to choose one out of the three sets in each subject without opening the sealed covers and send it as such to the press for printing the question papers and for preparing packets of question papers for examination centres under its seal. At every stage, complete secrecy is maintained. As soon as answer sheets are received by the Commission from a particular examination centre, they are straightaway taken to the Computer Section where they are provided to the computer for scanning. The computer absorbs in its memory every necessary particular and ejects the answer sheets. It may be observed that if there is any spurious answer sheet. It will be thrown out by the computer. When all the answer

sheets, as and when received from different examination centres, are subjected to the computer for the purpose of scanning, the 'T-Sheet' i.e., 'the key-answer sheet' is supplied to the computer which absorbs in its memory the correct answers of various questions and rejects the sheet. Thereafter on demand, the computer starts giving the marks scored by each candidate. In such view of the matter, there is no room for re-evaluation of the answer sheets.

5. So far as the scaling of marks is concerned, a Committee of three experts consisting of Dr. M. K. Singh, D.A.V. College, Kanpur ; Prof. Ram Chandra Yadav, Kashi Hindu Vishwavidyalay, Varanasi and Prof. A. K. Saxena, Lucknow University, Lucknow, after examining various systems of scaling came to the conclusion that Z-scaling would be the most appropriate one for the purpose of scaling and accordingly by its report dated 2.9.1996. recommended the introduction of Z scaling system for the examinations conducted by the U. P. Public Service Commission. The proposal submitted by the Committee for introduction of the Z scaling system reads as under :

^yksd lsok vk;ksx] m- iz-]bykgkckn }kjk vk;ksftr ijh{kkvksa eas Ldsfyax i)fr ykxw djus ds IEcU/k esa lw=dk fu/kkZj.k rFkk fofHkUu vH;klksa ls izklr ifj.kke dk fo'ys'k.k djdsfuEufyf[kr izLrko fopkjkFkZ iszf'kr gS&&

1Ldsfyax gsrq tsM Ldsfyax i)fr lcls mi;qDr i)fr izrhr gksrh gS A vr% vk;ksx }kjkvk;ksftr ijh{kkvksa esa tsM Ldsfyax i)fr dk iz;ksx fd;k tkuk rdudh n`f'Vls mi;qDr gS A tsM Ldsfyax dk lw= fuEuor gS %

g-@ g-@ g-@ 2&9&96 2&9&96 2&9&96

izks- ,- ds- IDIsuk] y[ku fo'ofok|ky;]

y[kuA

izks- jkepUnz ;kno] dk'kh fgUnq fo'ofok|ky;]

okjk.klhA

Mk-,e- ds- flag]Mh- ,- oh- dkyst]

dkuiqj A**

$Z = \frac{X - M}{S.D.}$ Assumed Mean + (X-M)-----S.D. x Assumed S.D. Z is the Scaled Score. X is the Raw Mark.

M is the Mean of Raw Marks of the group/subject (as the case may be).

Assumed Mean will be taken as Half of the maximum marks of the group/subject.

Assumed S.D. will be taken as 1/5th of the assumed mean.

2 Ldsfyax d i'pkr~ ;fn Scaled Score 'kwU; Is de gqv k rks vH;FkhZdks mDr group/subjectesa 'kwU; vaad ,ykV fd;k tk;sxk A

3 Ldsfyax ds i'pkr~ ;fn Scaled Score vf/kdre izklrkad Is vf/kd gSrks vH;FkhZ dks mDr group/subjectesa vf/kdre vad ,ykV fd;k tk;sxk A

4 izkjfEHkdd ijh{kk esaoSdfYid fo'k; Lrj ij Ldsfyax fd;k tk;sxk rFkk eq[; ijh{kk esa IHkh iz'u&i;=ksadks ijh{k d Lrj ij Ldsfyax fd;k tk;sxk A

5 Ldsfyax ds i'pkr~ izklrfo'k;okj Scaled Scoresdks vko;drkuqlkj tksM+dj Js'Brke fu/kkZfjr djus dk dk;Z fd;k tk;sxk A

6 ;fn dksbZ Scaled Scores n'keyo esa vkrk gS rks mlsizpfyr fu;ekuqlkj iw.kkZd esa cny fn;k tk;sxk A

6. The Commission, it appears has adopted the aforesaid Z scaling system recommended by the Committee aforesaid. The argument that scaling should be applied where there are chances of variation in allotment of marks by different examiners is a misplaced argument. So is the argument that scaling system is uncalled for so far as the preliminary examination is concerned where objective type of questions are to be answered. The object of scaling at the stage of preliminary examination is not confined to rationalisation of marks but is to ensure representation in State services of candidates having studied different subjects. Total representation of each subject comes to approximately between 5% of adopting the scaling system. The system of scaling adopted by the Commission is uniformly applied in respect of each candidate. The formula on which the scaling is

done seems to be a scientific one and the learned counsel appearing for the petitioners to whom the formula was shown during the course of argument could not point out any infirmity therein. It seems that the writ petitions are born of misgivings arising out of lack of transparency. The candidates were in dark about the formula adopted by the Commission for the purpose of scaling. The lack of transparency seems to be the reason of influx of a large number of writ petitions being filed against the Commission. We are of the considered view that candidates have a right to know the manner in which their answer sheets are evaluated besides the standard and norms on which they are judged at the examination conducted by the Commission. Though we find no case made out to interfere with the declaration of result of the impugned examination conducted by the U. P. Public Service Commission, we are of the view that the Commission should be a bit more transparent in the matter of the method of evaluation of answer sheets of the candidates. Therefore, to ensure transparency it is hereby provided that in the written examinations conducted by the Commission, the Commission shall consider the feasibility of : (i) providing a carbon copy of the answer sheets to the candidates ; (ii) publishing the marks obtained by each candidate along with the roll number when the result is declared ; and (iii) furnishing the key answers to the candidates after the declaration of result of the (Pre) as well as (Main) Examination.

7. In the result, therefore, the writ petitions are dismissed subject, of course, to the above direction.

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