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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 8597/2022 & C.M.No.34077/2022

KOMAL DHAWAN ..... Petitioner
Through: Mr.Tushar Mahajan with Mr.Rohan Yadav and Mr.Bhaavan Mahajan, Advocates.

versus

THE HIGH COURT OF DELHI
THROUGH ITS REGISTRAR GENERAL ..... Respondent
Through: Dr.Amit George with Mr.Amol Acharya, Mr.Rayadurgam Bharat, Mr.Piyo Harold Jaimon and Mr.Arkaneil Bhaumik, Advocates.

Reserved on : 10th January, 2023
% Date of Decision: 17th January, 2023

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

MANMOHAN, J:

1. Present writ petition has been filed challenging the Order dated 7th May, 2022 rejecting the representation of the petitioner dated 8th April, 2022. Petitioner also seeks a direction to the Respondent no.1 to revaluate the shorthand skill test (**Paper-I**) given by the petitioner as part of the Senior Personal Assistant ('**SPA**') Examination – 2021 in accordance with the rules and thereby award 4.5 marks to the petitioner and consequently appoint her as a SPA with consequential benefits.

SUBMISSIONS ON BEHALF OF THE PETITIONER

2. Learned counsel for the petitioner contended that in SPA Examination-2021, the petitioner was stated to have committed 18.5 mistakes in Paper-I and 21.5 mistakes in Paper-II and thus in both Paper-I and Paper-II, the petitioner had been shown to have committed mistakes more than what was permissible, i.e., 16.5. Accordingly, the petitioner was not considered for promotion to the post of SPA.

3. He further stated that the petitioner after analysing her transcripts received pursuant to an application under the RTI Act, found that the respondent no.1 had counted 4.5 mistakes of the petitioner in Paper-I in complete contravention to the relevant evaluation rules. He emphasised that respondent no.1 had counted seven (7) mistakes in the transcript/answer sheet of the petitioner in complete contravention of the evaluation scheme/ rules.

4. He stated that the act of not leaving a space between ***"Mr."*** and ***"Anil Raghav"*** in the typed passage could not have been treated as a mistake as per serial no.3 of the rules. He contended that the petitioner had not committed any mistake by not providing a space between ***"Mr."*** and ***"Anil Raghav"***. He stated that the counting of ½ mistakes at two places was incorrect and impermissible and the petitioner deserved one full extra mark.

5. He further stated that the mistake of the petitioner in typing ***"provides"*** as ***"provide"*** had been counted as one full mistake. According to him, as per serial no.9 of the rules, only ½ mistake could have been counted for typing singular for plural or vice-versa. He, however, stated that respondent no. 1 had counted this as one full mistake.

6. He also stated that respondent no.1 had committed an error in preparing/setting up the Paper-I. In ***2nd Para, 5th line*** of Paper-I, it was written "*... plaintiff **or** seeking adjournments on flimsy .....*". The petitioner typed the word "***or***" as "***for***". He contended that the word "***or***" could not come at that place in the passage and the only possible words which could be put there were "***for***" or "***on***". As such, the question/passage prepared/set by respondent no.1 was incorrect. By using the word "***for***", the petitioner applied the correct grammatical syntax at this place, which was not wrong substitution as per serial No. 5 of the rules. He contended that the 'price of the mistake' committed by respondent no.1 in preparing/setting-up an incorrect passage should not be borne by the petitioner.

7. He lastly stated that the insertion of a punctuation mark of apostrophe ***'s'*** after the words ***"Ram Tripathi"*** in the passage did not call for deduction of one full mark. As per serial no.2 of the rules, though only ½ mark could have been deducted for adding an apostrophe ***'s'***, yet respondent no. 1 had deducted one full mark. As such, the counting of one mistake at this place was incorrect as only ½ mistake could have been counted.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

8. Per contra, Mr.Amit George, learned counsel for the respondent, stated that a stenographer in our legal system performs an important role of accurately and precisely generating the official record of the Court as reflected *inter-alia* in the daily orders and reported judgments rendered by the Hon'ble Judges. What, according to him, is of utmost importance is ensuring fidelity between what is dictated by the Hon'ble Judge, and what ultimately appears on the paper as the written word. Therefore, according to

him, as per the basic principle being followed in Shorthand Tests, the candidates were expected to type verbatim what was dictated by the Orator.

9. He stated that insofar as typing the word ‘for’ instead of ‘or’ was concerned, the assertion of the Petitioner that the word ‘for’ fits better grammatically at the relevant line in the passage and therefore, the word ‘or’ could not be used was unmeritorious, inasmuch as, it was not for a candidate to find fault with the dictated passage and the task of the candidate was restricted to typing out the dictated passage. He pointed out that as many as four other candidates had typed the word ‘or’ instead of ‘for’ and therefore, the Petitioner could not be permitted to find faults with the dictated passage as per her *ipse-dixit*.

10. He stated that insofar as the mistake of typing ‘provides’ instead of ‘provide’ is concerned, the same was a mistake of substitution of a wrong word / figure in place of word / figure dictated and could not be termed as a mistake pertaining to usage of ‘plural’ form instead of ‘singular’ form, inasmuch as, the word had been used as a verb. Thus, the said mistake was to be marked as one mistake as per serial No.5 of the rules.

11. He further stated that contrary to the assertions of the Petitioner, typing ‘Tripathi’s’ instead of ‘Tripathi’, the petitioner had not only wrongly inserted a punctuation mark of apostrophe but had also wrongly added one additional letter ‘s’, which was to be treated and counted as a mistake. Thus, the wrong insertion of a punctuation mark of apostrophe plus wrong addition of one letter ‘s’ had been treated as one full mistake by the Examining Authority following the evaluation scheme as, in all, one word was wrongly typed by the petitioner. Hence, the submissions made by the petitioner for counting of half (1/2) mistake instead of one (1) full mistake was liable to be

rejected as the Examining Authority had correctly evaluated the Transcription Sheet of the petitioner.

12. He, however, admitted that insofar as the mistake regarding joining the words 'Mr.' and 'Anil' at two places was concerned, the said mistake had been wrongly marked. He further stated that even ignoring the said mistake would not assist the case of the Petitioner so as to enable her to find a place in the select list as the no. of mistakes committed by her comes to 17.5 (18.5 - 1 = 17.5) while the no. of permissible mistakes, as notified vide the Notice dated 30th September, 2021, was 16.5.

COURT'S REASONING

13. Having heard learned counsel for the parties, this Court is of the view that it is essential to outline the scope of Court interference with the results of an examination. The Supreme Court in ***Ran Vijay Singh & Ors. vs. State of Uttar Pradesh & Ors., (2018) 2 SCC 357***, while discussing the law regarding judicial interference with the results of an examination has held as under:-

> *"18. A complete hands-off or no-interference approach was neither suggested in Mukesh Thakur [H.P. Public Service Commission v. Mukesh Thakur, (2010) 6 SCC 759 : (2010) 2 SCC (L&S) 286 : 3 SCEC 713] nor has it been suggested in any other decision of this Court—the case law developed over the years admits of interference in the results of an examination but in rare and exceptional situations and to a very limited extent.*
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> *xxx xxx xxx*
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> *30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are:*
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> *30.1. If a statute, Rule or Regulation governing an examination permits the re-evaluation of an answer sheet or scrutiny of an*

answer sheet as a matter of right, then the authority conducting the examination may permit it;

30.2. If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any "inferential process of reasoning or by a process of rationalisation" and only in rare or exceptional cases that a material error has been committed;

30.3. The court should not at all re-evaluate or scrutinise the answer sheets of a candidate—it has no expertise in the matter and academic matters are best left to academics;

30.4. The court should presume the correctness of the key answers and proceed on that assumption; and

30.5. In the event of a doubt, the benefit should go to the examination authority rather than to the candidate."

14. In another case being ***High Court of Tripura vs. Tirtha Sarathi Mukherjee, (2019) 16 SCC 663*** the Supreme Court has held as under:-

"23. ..... Even in the judgment of this Court in Ran Vijay Singh v. Rahul Singh (2018) 2 SCC 357 which according to the first respondent forms the basis of the High Court's interference though does not expressly stated so, what the Court has laid down is that the Court may permit re-valuation inter alia only if it is demonstrated very clearly without any inferential process of reasoning or by a process of rationalisation and only in rare or exceptional cases on the commission of material error. ....."

15. Keeping in view the aforesaid mandate of law, this Court is of the view that re-evaluation of the answer sheets as is being sought by way of the present petition is impermissible inasmuch as there is no provision for any such re-evaluation in the Notice dated 30th September, 2021 on the basis of which the examination for the post of SPA was conducted nor is there any such provision in the applicable rules.

16. In the present case, the respondent has also considered the issues raised by the petitioner and given detailed reasons as to why the impugned marking is correct. This Court is in agreement with the learned counsel for the respondent that none of the pleas/grounds raised in the writ petition under reply very clearly demonstrate, without any "inferential process of reasoning or by a process of rationalisation" that a material error has been conducted, except deduction of one full mistake (i.e., two half mistakes at two places) for not giving space between 'Mr.' And 'Anil'. However, even if the petitioner is given the benefit of deducting one full mistake, which has inadvertently been deducted by the Examiner for not giving space between 'Mr.' and 'Anil', the same does not offer any assistance to the petitioner in helping her meet the threshold for selection.

17. This Court is also in agreement with the contention of learned counsel for the respondent that in Shorthand Tests, it is not for the candidates to find mistakes in the dictated passage and/or to replace/add any word(s) dictated by the Orator on any ground whatsoever and that too after declaration of the result of the examination concerned. In fact, at times, the Paper Setter(s) / Examiner(s) do mention a wrong word so as to judge / assess the candidate's ability whether he/she would type / transcribe the word actually dictated or otherwise. Consequently, irrespective of the fact that the word was wrongly dictated or otherwise, the candidate is required to type / transcript the same word/passage which was dictated.

CONCLUSION

18. Keeping in view the aforesaid factual and legal scenario, this Court finds no ground to interfere with the decision of the Examiner.

Consequently, the present writ petition is dismissed, but without any order as to cost.

MANMOHAN, J

SAURABH BANERJEE, J

JANUARY 17, 2023/TS