



2025:CGHC:15226-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WA No. 217 of 2025**

Shubham Sinha S/o Shri Sanjay Kumar Sinha, aged about 26 years R/o House No. G-6/2, High Court Colony, Chakarbhata, Bilaspur, District-Bilaspur (C.G.)

... Appellant**versus**

1 - The Honble High Court of Chhattisgarh at Bilaspur through its Registrar General, High Court Campus, Bodri, District- Bilaspur (C.G.)

2 - The Registrar General of the High Court of Chhattisgarh at Bilaspur High Court Campus, Bodri, District- Bilaspur (C.G.)

3 - Mohd. Azhar S/o Imtiyaz Ahmed aged about 25 years presently posted as Stenographer in the establishment of the Honble High Court of Chhattisgarh at Bilaspur, Raipur Road, Bodri, District- Bilaspur (C.G.)

4 - Shayna Kadri D/o Shri A.M. Kadri presently posted as Stenographer in the establishment of the Honble High Court of Chhattisgarh at Bilaspur, Raipur Road, Bodri, District- Bilaspur (C.G.)

... Respondent(s)

For Appellant : Ms. Naushina Afrin Ali, Advocate

For Respondent Nos.1 & 2 : Mr. Ashish Surana, Advocate
through video conferencing and
Mr. Chetan Singh Chouhan, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board**Per Ramesh Sinha, Chief Justice****01.04.2025**

1. Heard Ms. Naushina Afrin Ali, learned counsel for the appellant.

Also heard Mr. Ashish Surana through video conferencing and Mr.Chetan Singh Chouhan, learned counsel, appearing for respondent Nos.1 & 2 / High Court of Chhattisgarh.

2. By way of present writ appeal under Section 2 of Sub-Section (1) of the Chhattisgarh High Court (Appeal to Division Bench Act, 2006, the appellant, who was writ petitioner in WP(S) No. 506 of 2024, has challenged the order dated 22.01.2025 (Annexure A-1) passed by learned Single Judge, whereby the writ petition filed by the writ petitioner was dismissed by the learned Single Judge.
3. Brief facts necessary for disposal of this appeal are that respondents No. 1 & 2/High Court of Chhattisgarh has issued an advertisement for appointment on the post of Stenographer and as per the advertisement last date for submission of form was 20.06.2023. Initially, the advertisement was issued for 29 posts and later on it was increased to 65 posts out of which 25 posts were for unreserved category. The writ petitioner participated in the selection process and after qualifying Phase-I, admission card for skill test was issued and he appeared in skill test. It was found that the writ petitioner has secured 86 marks whereas last selected candidates (respondents No. 3 & 4) in the merit list have secured 87 marks, therefore, candidature of the writ petitioner on the post of Stenographer was not considered. Being aggrieved with this non-selection, the writ petitioner has filed writ petition being WPS No. 506 of 2024 under Section 226 of the Constitution of India before this Court, which was dismissed by the learned

Single Judge vide impugned order dated 22.01.2025. Hence, this appeal.

4. Ms. Naushina Ali, learned counsel for the appellant vehemently argued that impugned order which has been passed by the learned single Judge is illegal and contrary in the eye of law as it is against the principal of natural justice. She submitted that the dictation test paper of the appellant would clearly show that, he has committed only 13 mistakes, but, it seems, that due to inadvertence, at the time of counting of the mistake, it has been counted as 14 mistakes, in place of 13, therefore, the impugned counting mistake needs to be corrected and the appellant may be given total 87 marks. She further submitted that in the dictation paper done by one of the candidate Ms. Chanchal Sinha, the respondent authorities have deducted 1 mark for one mistake and for the same mistake 2 marks were deducted from the marks of the appellant, which shows that in the marks of the appellant inadvertently 14 marks have been deducted instead of 13 marks, and it is evident from the name of the evaluator at the top of the answer sheet of both the candidates that the examiner who corrected/evaluated the answer sheet of the appellant and well Ms. Chanchal Sinha is one and the same. The learned single judge has failed to appreciate that impugned deduction of 1 additional marks and denial of appointment to the appellant is arbitrary and illegal and in violation of the fundamental rights of the appellant guaranteed under Articles 14, 16, and 19 of the

Constitution of India. She also submitted that the learned single judge has failed to appreciate that as per the clear terms of the advertisement, 1 mark was to be deducted for each mistake and thus, deduction of one additional mark by the respondent authorities, is not sustainable in the eyes of law and is contrary to the Rules and conditions of advertisement.

5. Ms. Ali contended that the respondent authorities ought to have appreciated that, if the mistakes committed by the appellant would have been properly calculated, then he would have secured 87 marks, instead of 86 marks and thus, he would have been selected, over and above the respondent no. 3 & 4 herein, who are the last selected candidates under "UR" category. Further, as the date of birth of the appellant is 02.06.1997 and respondent no. 3 & 4 are younger to the appellant therefore, as per Rule 12 (2) of the C. G. High Court Service (Appointment, Condition of Service and Conduct) Rules of 2017, which provide that, in case of two or more members placed at the same position in the merit list, the person senior in age, shall be given seniority over other, the appellant would have been placed over and above the respondent No. 3 & 4 in the select list. She further contended that the learned single judge has failed to appreciate that the impugned action of the respondent authorities has resulted in the denial of selection and appointment to the appellant. Such action must always be justified in the eyes of the law. In the present case, marks have been deducted for no apparent errors committed by the appellant.

Therefore, the impugned action suffers from patent illegality and is liable to be interfered with. Ms. Ali also contended that in such cases interference is called for from this Hon'ble Court as the subject by itself is not one which requires technical expertise, which is usually said to be beyond the scope of writ jurisdiction. The subject is not a technical subject, and it is well within the scope of this Hon'ble Court to interfere with the impugned action without seeking expert advice on the subject. It is submitted that evaluation is required to be conducted as per the scheme of the examination and the failure to do so has resulted in violation of the very important right of the appellant to be fairly considered in the process of appointment. While appointment is not a right, fair consideration of candidature in the process of appointment has been held to be a fundamental right by the Hon'ble Supreme Court. Since the appellant has been denied fair consideration by wrongful evaluation of the answer sheet by the respondent authorities, the present case warrants interference of this Hon'ble Court in the exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India because the learned single judge failed to appreciate that had the respondent authorities correctly evaluated the answer book of the appellant, the appellant would have got 87 marks and would have been selected over and above of the respondent No.3 & 4, as the last candidate in the unreserved category, it is submitted that the merit list, waiting list and the consequential appointment order are therefore vitiated.

6. On the other hand, Mr. Ashish Surana, learned counsel opposed the aforesaid submission and submitted that the learned Single Judge, after considering all the aspects of the matter, has rightly dismissed the writ petition, in which no interference is called for. He further submitted that as per scheme of valuation, one mark is to be deducted for each mistakes and also for insertion of unwanted word which was not dictated. He further submitted that the appellant has typed the word which was not dictated by the examiner, therefore, one mark was deducted for this and 13 marks have been deducted for other 13 mistakes committed by the appellant, accordingly 14 marks have been deducted, as such he was given 86 marks.
7. We have heard learned counsel for the parties and perused the impugned order and other documents appended with writ appeal.
8. From perusal of the answer sheet of the appellant, it is quite vivid that the appellant has typed the word which was not dictated by the examiner, therefore, one mark was deducted for this and 13 marks have been deducted for other 13 mistakes committed by the appellant, accordingly 14 marks have been deducted, as such he was given 86 marks and the same procedure has been followed for each and every candidate, therefore, no discrimination has been done and a uniform system of marking was adopted, moreover, the allotment of marks is legal, justified and does not warrant interference by this Court, as such the appellant cannot claim that he was discriminated or a wrong

procedure has been adopted to deprive the petitioner from being selected. Even otherwise, it is well settled position of law that evaluation of answer sheet is subject matter of expert wherein the interference by this Court is extremely limited unless so cogent reason is assigned which is not available in the present facts of the case.

9. Considering the submissions advanced by the learned counsel for the parties and the finding recorded by the learned Single Judge while dismissing the writ petition filed by the writ petitioner / appellant herein, we are of the considered opinion that the learned Single Judge has not committed any illegality, irregularity or jurisdictional error in the impugned order warranting interference by this Court.
10. Accordingly, the writ appeal, being devoid of merit, is liable to be and is hereby **dismissed**. No cost(s).

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice