



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 8742 of 2023Judgment Reserved On : 09.02.2026.Judgment Delivered On :28.02.2026.

Sonam Sahu D/o Churaman Sahu Aged About 23 Years R/o D-2/30, Officer Colony, Devendra Nagar, Raipur, District Raipur (C.G.)

... Petitioner.

versus

1 - State Of Chhattisgarh Through The Secretary, Department Of Law And Legislature Affair, Mahanadi Bhawan, Atal Nagar, Nawa Raipur District Raipur (C.G.).

2 - President Selection Committee District And Session Court, Durg, District Durg (C.G.).

3 - Parmeshwari Sahu D/o Shri Bhagelu Ram Sahu Selection List At Sr. No. 34, Through President, Selection Committee District And Session Court, Durg, District Durg (C.G.).

4 - Shivali Yadav D/o Shri Munna Lal Yadav Selection List At Sr. No. 37, Through President, Selection Committee District And Session Court, Durg, District Durg (C.G.).

... Respondents.

For Petitioner	:	Shri Ajit Singh, Advocate.
For State/Respondent No.1	:	Shri Sangarsh Pandey, Govt. Advocate.
For Respondent No.2	:	Shri Amrito Das, Advocate.
For Respondent Nos.3 & 4	:	Shri Rishi Rahul Soni, Advocates.

({ Hon'ble Mr. Justice Amitendra Kishore Prasad })

C A V Order

1. By way of this Writ Petition, petitioner is challenging the final select list dated 16.10.2023 (Annexure P/3) which relates to appointment to the post of Assistant Grade-3 (women category) and for setting aside order dated 17.10.2023 (Annexure P/4) by which, it has been informed that there was typing error in computer tabulation and the same has been amended and the petitioner has obtained 139.5 marks and as the petitioner failed to obtain the required marks for selection to the said post, she cannot be appointed.

2. The petitioner has prayed for the following reliefs:-

10.1 A writ and/or an order in the nature of writ of appropriate nature kindly do issue to the respondents authority and directed placed entire documents of the records before this Hon'ble court pertaining the case of the petitioner.

10.2 A writ and/or an order in the nature of writ of appropriate nature kindly do issue to the respondents

authority and set aside the impugned selection list dated 16.10.2023, so far relates to post of the Assistant Grade-III in woman category and consequences set-aside the order dated 17.10.2023 in respect of the petitioner which is arbitrary, illegal and without procedure of the law, in the facts and circumstances of the case.

10.3 A writ and/or an order in the nature of writ of appropriate nature kindly do issue to the respondents authority and after adopting the proper procedure of law given effect to the selection list dated 03.10.2023 as such is being issued accordance with law and selected the petitioner on the post of Assistant Grade-III in woman category, in the facts and circumstances of the case.

10.4 Any other relief in the direction of this Hon'ble Court.

3. Case as projected by the petitioner is like that by advertisement dated 09.06.2023, respondent no.2 has published various posts i.e. class-III & class IV employee for direct recruitment and as per her eligibility qualification, the petitioner applied for the post of Assistant Grade-III in unreserved category. In advertisement, it appears that 12 posts has

been reserved for woman category for Assistant Grade-III. On 03.09.2023, the petitioner appeared in written examination as per the advertisement conditions as also for skill test examination and ultimately the result has been declared on 03.10.2023 and the petitioner secured 193.5 marks in written examination and obtained 31 rank in the selection list and as such total 66 candidates have been selected on the post which has been filled up by them. That, on selection list, the authority has also mentioned the condition that if any candidate is having objection with regard to published selection list then the same shall be filed up to 09.10.2023. At this juncture, the petitioner submits that perusal of the final selection list dated 03.10.2023, it appears that the respondent no. 3 has obtained 107.5 marks in the written examination and found a place in over all merit list at Sr.No. 463. According to information, number of persons filed objections whatsoever they having the knowledge about the incorrect action done by the authority and ultimately without any complaint and objection by the petitioner, again final selection list dated 16.10.2023 has been published and surprisingly in the said list, the petitioner's name has been removed and selected the respondent no.3 at Sr. No. 34 mentioning marks allotted to her as 184.5. In the said list, name of total selected 66 persons have been published and at the same time, name of 142 candidates who said to be waiting list candidate has been

published. It is submitted that on 17.10.2023 the authority has clarified that since selection committee on 12.10.2023 found certain correction in the written examination of the petitioner therefore her marks has been corrected and the same time it has also been mentioned with regard to 184.5 marks allotted to respondent no.3 as per the decision of the selection committee, therefore without adopting proper and fair procedure and without any giving opportunity of hearing, the selection of the petitioner has been cancelled /rejected, thus the action and decision taken by the authority is illegal, arbitrary, liable to be set aside. Perusal of the advertisement, it appears that the entire selection process has been done according to skill test and at the time of checking the answer sheet each and every minute correction has been pointed out, therefore since the petitioner has clearly obtained 193.5 marks and no such complaint or allegation with regard to any undue advantage or fault of the tabulation of the marks allotted to the petitioner has been made, the authority has themselves took decision and re-checked the entire skill test answer sheet and without intimating the petitioner about the same, has corrected and debarred the petitioner from the selection list. Advertisement nowhere assigns condition with regard to re-checking or re-totaling of the marks unless and until any specific allegation has been made, however the authority has without any assigning reason just mentioned the decision of the

selection committee dated 12.10.2023 and corrected the marks of the respondent no.3 from 107.5 to 184.5. Since entire scenario was changed and one person who was earlier selected now was unselected and the candidate who secured less marks was subsequently found suitable for selection. In selection process of any post, there is need for transparency and fair procedure so that the method of correction would be acknowledged by the candidates but no such procedure has been adopted and behind the back entire decision has been taken which is not sustainable under the law. That, the petitioner arrayed as party respondents as namely Parmeshwari Sahu, Respondent No.3 who selected due to correction of the her marks and also arrayed party to the respondent namely Shivali Yadav, Respondent No.4 who obtained 181.5 marks. As per the total post vacant i.e. 12 woman category, if petitioner would have been selected and the marks of Parmeshwari Sahu, Respondent No.3 was found to be correct then last candidate would be out of selection list, therefore, these two candidates have only been arrayed as respondents from the selection list, rest of the other candidates would not effect and no grievances against them. In view of above, it is clear that the authority has not adopted the proper procedure and not followed the condition mentioned in the advertisement and without assigning any reason the candidature or selection of the petitioner has been cancelled and

marks has been reduced, thus there is no other option except to approach this Court.

4. Learned counsel for the petitioner submits that initially the select list of the post of Assistant Grade-3 was prepared, in which, name of the petitioner found its place as a selected candidate on securing 193.5 marks, however, subsequently another select list has been prepared in which, petitioner was shown to have secured 139.5 marks. Learned counsel submits that the respondent authorities have illegally corrected the earlier select list and vide letter dated 17.10.2023, they have clarified that according to decision of select committee on 12.10.2023, marks have wrongly been calculated and awarded, as such, the said mistake has been rectified. Learned counsel for the petitioner further submits that subsequent rectification in the select list is not in accordance with law, therefore, this Petition may be allowed while setting aside the subsequent select list and direct the respondent authorities to consider the earlier select list for the post of Assistant Grade-3.
5. Learned State counsel submits that claim of the petitioner that her name was mentioned in the provisional select list is unreasonable as it is settled principle of law that name of a candidate finding its place in the provisional select list will not accrue any right in the favour of the candidate to be appointed on the said post. It is an exclusive right of

the employer to scrutiny the candidature of each and every candidate till the publication of the final selection list. In the provisional select list, petitioner got 193.5 marks, however, in the final select list, she got 139.5 marks as in the provisional select list, there was some typographical mistake and to correct the same, final select was prepared subsequent to provisional select list. Hence, this Writ Petition lacks merits which may be dismissed by this Court.

6. Learned counsel appearing for Respondent No.2 submits that petitioner's entire claim is founded upon the provisional merit list dated 03.10.2023, however, this reliance is legally unsustainable because the list was inherently conditional and tentative. The said provisional list carried a specific caveat warning all candidates that the selection committee retained powers to rectify any tabulation or clerical errors. The provisional merit list explicitly contained conditions regarding its provisional nature and the correction of errors, which is as under:

"उपरोक्तानुसार घोषित अनंतिम चयन परिणाम में अंकण / टंकण / मुद्रण / प्रक्रिया संबंधी त्रुटि होने पर भर्ती कमेटी, जिला एवं सत्र न्यायालय, दुर्ग में संधारित मूल डाटा के आधार पर तैयार सूची ही मान्य होगी एवं तदनुसार चयन परिणाम संशोधित किया जा सकेगा।"

7. The aforesaid condition puts all candidates including the petitioner on clear notice that the marks show in the provisional list were subject to verification and that any clerical errors discovered during verification would be rectified. By participating in the examination process and accepting her provisional ranking, the petitioner impliedly accepted these terms and conditions, therefore, now she cannot deviate from those conditions. Further, it is a settled principle of law that a candidate does not acquire an indefeasible right to appointment based merely on the inclusion of their name in a merit list and this principle applies with even greater force to a 'provisional list' which is expressly subject to rectification. The entry of 193.5 marks was a factual impossibility and a mistake of fact, not a result of a conscious assessment of merit. The Administration has an inherent right and duty to correct such bona fide mistakes to ensure that public employment is granted based on actual merit and not accidental errors.
8. Learned counsel for Respondent No.2 also submits that even if the petitioner were afforded an opportunity to make a representation or be heard prior to the rectification, the outcome would remain wholly unchanged as no amount of representation could alter the mathematical reality of the marks awarded on the physical answer script. As such, petitioner cannot claim an indefeasible vested right

based on a mistake that is unequivocally contradicted by the documentary evidence of her own answer sheet.

9. Learned counsel for Respondent No.2 now moves on to submit with regard to another contention raised by the petitioner that rectification of her marks was violative of the principles of natural justice as no notice or opportunity of hearing was afforded to her before correcting the clerical error. In this regard, it is respectfully submitted that this argument is liable to be rejected under the “Doctrine of Empty Formality” or “Useless Formality Theory”. The law does not compel the performance of a futile act, and the cancellation of an advantage gained solely through a clerical mistake does not require the rigorous observance of natural justice when the facts are indisputable as in the present case, it is indisputable that the petitioner scored 139.5 marks in her examination and the same was made clear in the final merit list when clerical error in calculation of the petitioner’s marks was rectified by the respondents. He places reliance on the judgment passed in the matter of **State of Manipur & Ors. vs. Y. Token Singh & Ors. {(2007) 5 SCC 65}** by the Hon’ble Supreme Court, which held that the principles of natural justice are not a straitjacket formula and that where the facts are admitted, the principles of natural justice were not required to be complied with, particularly when the same would result in futility.

10. Further reliance is placed by Respondent No.2 on the judgment of the Hon'ble Supreme Court in the matter of **Aligarh Muslim University v. Mansoor Ali Khan { (2000) 7 SCC 529}**. In the said case, the Apex Court invoked the “useless formality” theory and held that where there are admitted or indisputable facts, and only one conclusion is possible, the Court may not issue its writ to compel the observance of natural justice.
11. Learned counsel for Respondent No.2 submits that applying the aforesaid precedents to the present case, the fact that the petitioner secured 139.5 marks is an indisputable fact derived directly from her answer sheet (Annexure-R/2A). Even if a notice were issued and a hearing granted, the petitioner could not arguably change the mathematical reality of the marks recorded on her physical answer sheet.
12. Learned counsel appearing for Respondent No.2 while concluding submits that there is nothing illegal in correction of selection list as earlier due to mistake, the marks obtained by the candidates could not be calculated properly. He submits that the actual marks which have been obtained by the petitioner i.e. 139.5 were reflected as 193.5 due to clerical and typographical error during the data entry of tabulation. Therefore, when re-tabulation was done, it was found that the petitioner has actually obtained 139.5 marks and thus, she could not

get selected. The aforesaid mistake is a procedural mistake which was also rectified subsequently as such, claim of the petitioner is baseless, misconceived and liable to be turned down by this Court.

13. Learned counsel for Respondent Nos.3 and 4 submits that grounds raised by the petitioner on the basis of marks shown in provisional selection list is baseless as marks allotted to the petitioner in skill test was reflected incorrectly due to typographical mistake in computer tabulation which was subsequently corrected and the petitioner was awarded 139.5 marks. Similarly, marks of Respondent No.3 was also reflected incorrectly and was corrected as 184.5 marks. On the basis of said correction in allotment of marks, petitioner was not entitled to be appointed on the post of Assistant Grade-III whereas insofar as Respondent No.3 is concerned, her marks were corrected from 107.5 to 184.5 and as such, Respondent No.3 was entitled to be appointed on the post of Assistant Grade III. The final selection list (Annexure P/3) was prepared after due correction in allotment of marks and as such, there is no illegality in the final selection list and therefore, this Writ Petition being devoid of merits may be dismissed by the Court.

14. I have heard learned counsel for the parties and perused the record available with the Writ Petition.

15. From perusal of the record, it is quite vivid that the earlier select list dated 03.10.2023 was having some defect while awarding marks to

the candidates which has been subsequently corrected. The petitioner on the basis of the provisional select list dated 03.10.2023 has obtained 193.5 marks. However, there being a defect in the provisional select list dated 03.10.2023, the same was rectified and it was informed that wrongly in the provisional select list dated 03.10.2023, marks obtained by the petitioner has been reflected as 193.5, however, the actual marks secured by the petitioner was informed vide Annexure P/4 as 139.5. The said error occurred while calculating and tabulating the marks and was rectified by way of impugned select list dated 16.10.2023, which cannot be said to be illegal.

16. Further, upon going through the answer sheet (Annexure R/2-A) of the petitioner carefully and on perusal of the same, it appears that no illegality has been committed by the respondent authorities in calculating the marks obtained by the petitioner which is 139.5 which was wrongly reflected as 193.5 marks in the provisional select list. Moreover, on going through the answer sheet of Respondent No.3 who has been selected on the post in question, initially she secured 107.5 and on her answer sheet getting counter checked, she secured 184.5 marks and was selected to the post in question.

17. On the basis of aforesaid discussion, this Court is of the view that there is no such illegality or perversity in the impugned select list dated 16.10.2023 (Annexure P/3) as the same was issued just to correct the

mistakes occurred in the provisional select list dated 03.10.2023 (Annexure P/2) which has rightly been corrected, therefore, in the opinion of this Court, the subsequent select list dated 16.10.2023 is genuine and in accordance with law.

18. In the result, the Writ Petition being devoid of merits is liable to be and is accordingly dismissed.

Sd/-
(Amitendra Kishore Prasad)
Judge

Avinash

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