

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 3307 OF 2015

B.P.S.C. & ORS.

... Appellants

VERSUS

BALDEO CHOUDHARY & ORS.

... Respondents

O R D E R

Heard learned counsel for the parties.

We decline to interfere in the conclusion reached by the learned Single Judge as well as the Division Bench inasmuch as we also find that the underlining in the answer sheets seems to have been made in the natural flow of writing and not with a view to get any undue favour. However, we make it clear that this order should not be meant that the candidates should make mark on the papers contrary to the instructions issued to them. Ultimately, it is left to the Public Service Commission whether to initiate action on case to case basis. We also observe that this order should not be meant that the Commission should condone such markings under all circumstances. It depends upon facts and circumstances of each case. In this matter, as mentioned supra, the marking seems to have been made in natural flow of writing. Hence, the courts have rightly condoned the lapse.

Accordingly, the appeal stands dismissed. There shall be no order as to costs.

It is brought to the notice of the Court by learned counsel for the respondent that had the respondent been selected in the examination in question, he would have been ranked second. The same is, however, disputed by learned counsel appearing for the Commission. Be that as it may, it is brought to the notice of this Court that the respondent is already working in the Sales Tax Department of the State. Having regard to the totality of facts and circumstances of the case, interest of justice would be met in case the respondent is declared qualified to be appointed from the date of the judgment of the Division Bench, i.e., from 29<sup>th</sup> November, 2012. From that day onwards, the respondent should be given notional benefits of service such as continuity of service, increments etc. Since the respondent is already in service, he is not awarded any salary. Since, now he stands qualified for appointment, the State shall consider the respondent's case for appointment on a suitable place and pay him salary. The process shall be completed within a period of three months from this day and the salary will be paid from the date of his joining the duty.

....., J.  
(Mohan M. Shantanagoudar)

....., J.  
(Ajay Rastogi)

New Delhi;  
October 23, 2019.

ITEM NO.105

COURT NO.13

SECTION XVI

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 3307/2015

B.P.S.C. & ORS.

Appellant(s)

VERSUS

BALDEO CHOUDHARY & ORS.

Respondent(s)

Date : 23-10-2019 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR  
HON'BLE MR. JUSTICE AJAY RASTOGI

For Appellant(s) Mr. Navin Prakash, AOR  
Mr. Abhishek vikas, Adv.

For Respondent(s) Ms. Aparna Jha, AOR  
Mr. Braj Kishore Mishra, Adv.  
Ms. Kriti Sondhi, Adv.

Mr. Gopal Singh, AOR (NP)

UPON hearing the counsel the Court made the following  
O R D E R

Heard learned counsel for the parties.

The appeal stands dismissed in terms of the signed order.

There shall be no order as to costs.

(GULSHAN KUMAR ARORA)  
COURT MASTER

(R.S. NARAYANAN)  
COURT MASTER

(Signed order is placed on the file)