

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
Writ Petition (Civil) No.1369 of 2018**

Arvind Kumar Tiwari & Ors. Petitioner(s)

Versus

The State of Uttar Pradesh & Ors. Respondent (s)

WITH

Writ Petition (Civil) No.1330 of 2019

Writ Petition (Civil) No.606 of 2019

Writ Petition (Civil) No.1488 of 2018

Writ Petition (Civil) No.42 of 2019

Writ Petition (Civil) No.41 of 2019

Writ Petition (Civil) No.339 of 2019

Writ Petition (Civil) No.267 of 2019

Writ Petition (Civil) No.330 of 2019

Writ Petition (Civil) No.376 of 2019

Writ Petition (Civil) No.487 of 2019

Writ Petition (Civil) No.754 of 2019

J U D G M E N T

L. NAGESWARA RAO, J.

1. The complaint of the Writ Petitioners is that their result/marks of “Sub-Inspector (Civil Police) Ranker’s Examination 2000-2008” have not been declared. The further grievance of the Petitioners is that the benefit of the judgment dated 30.01.2017 of this Court in Writ Petition (Civil) No.45 of 2016 (***Raghuraj Singh v. State of Uttar Pradesh & Ors.***) has not been extended to them.

2. A Notification was issued on 12.06.2010 by U.P. Police Recruitment and Promotion Board (for short “the Board”) for selection to 5389 posts of Sub Inspector (Civil Police) Rankers’ by promotion from eligible Constables and Head Constables on the basis of a Departmental examination. The vacancies pertained to the years 2000-2008. Constables and Head Constables who completed a period of three years’ service on the first day of the year of recruitment and who have not attained 40 years of age were eligible to take part in the selection. Recruitment to posts of Sub-Inspectors is governed by Uttar Pradesh Sub-Inspector and Inspector (Civil Police) Service Rules, 2008 (for short “the Rules”). Rule 5

thereof provides that 50% of the posts of Sub-Inspectors shall be filled up by direct recruitment and the remaining 50% by promotion on the basis of Departmental examination from amongst substantially appointed Head Constables and Constables of the Uttar Pradesh Civil Police/ Armed Police/ Armed Police Mounted Police/ P.A.C. Procedure for recruitment by promotion to the post of Sub-Inspector is governed by Rule 16 of the Rules according to which the Board shall conduct a written examination. The written examination shall carry 300 marks. The allocation of marks is as follows:

- 1. Hindi Essay (based on Law and Order case study and police functioning) - 100 marks*
- 2. Basic Law, Construction and Police Procedure (Indian Penal Code, Criminal Procedure Code, Evidence Act and Police Manual etc.) - 100 marks*
- 3. Numerical and Mental Ability Test - 50 marks*
- 4. Mental Aptitude Test/ I.Q. Test/ Responding - 50 marks*

3. Except the subject Hindi Essay, questions of other subjects would be of objective type. Note 2 to Rule 16(2) stipulates that a candidate who fails to obtain minimum 50% marks in each subject shall not be eligible for promotion.

4. The examination was conducted on 13.03.2011. The Board issued a Notification on 20.04.2011 cancelling 08 questions which were found to be incorrect. Thereafter,

another Notification was issued by the Board on 26.05.2011 cancelling 18 questions which were found to be incorrect. On 11.06.2011, the result of the written examination was declared and 3891 candidates were selected out of whom 3351 candidates qualified after going through the physical test and group discussion.

5. A Writ Petition was filed in the High Court of Judicature at Allahabad by some of the unsuccessful candidates to set aside the result of the written examination. They complained of irregularities in the conduct of written examination. The cancellation of 18 questions was the main point taken by the Writ Petitioners. As the cancellation of questions was not due to any mistake of the candidates, a learned Single Judge of the High Court directed the Board to award full marks for the cancelled questions. Having been informed that there were several vacancies, the Respondents-therein were permitted to send the Writ Petitioners for training if found eligible after revision of the list. The said judgment of the learned Single Judge was challenged by a Special Appeal before the High Court. The Division Bench of the High Court, vide interim order dated 30.08.2012, stayed the operation of the judgment of the learned Single Judge and directed that no person shall be sent for training. The State of U.P.

approached this Court questioning the order passed by the Division Bench on 30.08.2012. This Court set aside the order of the Division Bench on 07.10.2013.

6. By an order dated 18.07.2014, this Court took note of the ongoing litigation pertaining to the selection to the posts of Sub-Inspectors by promotion in the State of Uttar Pradesh and issued the following directions:

(a) *The posts that have been filled up by successful candidates as has been apprised to us at the Bar are 3358 and the candidates who have joined in the said posts and presently working shall not be disturbed.*

(b) *The U.P. Police Recruitment and Promotion Board, Lucknow shall scrutinize the papers of all the Candidates, namely, the persons, who had approached the Writ Court and the Candidates who had not approached the Writ Court and if they have attempted and answered the 18 questions which were wrongly set out, they will be awarded full marks for said 18 questions.*

- (c) *If a candidate has not answered any erroneous question, the same shall be proportionately reduced. To clarify, the candidate shall only get full marks of questions answered.*
- (d) *A fresh select list shall be drawn up taking into account the aforesaid marks in respect of 2031 posts which are available in present pertaining to the year 2008.*
- (e) *The aforesaid exercise shall be completed within a period of three months, hence the successful candidates shall be duly intimated and subsequent action shall be taken by the State.*

7. From the 3358 candidates who were declared successful by a Notification dated 11.06.2011, 3248 candidates actually joined. 110 candidates who were not permitted to join due to their crossing the age of 40 years, were given the benefit of relaxation of age pursuant to an order passed by this Court. In Writ Petition (Civil) No.45/2016 **Raghuraj Singh** (supra), this Court directed the Petitioners to be accommodated in the existing vacancies of Sub-Inspectors (Civil Police) Ranker if they have obtained

marks between 190.16667 and 223.33333. It is clear from a perusal of the order that the Petitioners therein were qualified for being selected and promoted as Sub-Inspectors (Civil Police) Ranker.

8. These Writ Petitions have been filed seeking a direction that the order passed in ***Raghuraj Singh*** (supra) should be extended to them after declaring the marks obtained by them. The contention of the Petitioners is that there are several unfilled vacancies. It was submitted on behalf of the Petitioners that there is no reason for which their marks are not declared. It was submitted on behalf of the Petitioners that there can be no objection for declaring their marks and their promotion if they are found eligible. Finally, it was argued on behalf of the Petitioners that they are entitled for the same order that was passed in ***Raghuraj Singh*** (supra) in Writ Petition (Civil) No.45/ 2016. On behalf of the State of Uttar Pradesh, it was contended that the Petitioners are not entitled for the relief sought as they did not qualify in the selection of the test. According to the Respondents, the selection test is conducted in four stages. In the first stage of written examination, the candidates failing to obtain 50% marks in each of the four subjects prescribed for written examination shall be filtered out and the candidates

obtaining minimum 50% marks in every subject shall be included in the list of candidates for physical ability test. The learned counsel appearing for the State referred to a decision of the Board dated 22.02.2011 according to which the papers of objective type answer sheets will be evaluated initially. The Hindi Essay answer sheet will be taken up for evaluation thereafter only of those candidates who have obtained minimum 50% in each of the subjects which are of objective type. In other words, the candidates who do not secure minimum 50% marks in the three objective type subjects shall be disqualified and the examination paper for Hindi Essay shall not be evaluated. Initially, the marks of the candidates who were declared unsuccessful in the examination was not declared. By a Notification dated 17.05.2019, the Board uploaded the marks of all unsuccessful candidates. Several applications were filed seeking information relating to the marks obtained by them in the written examination. In response to the applications filed by 1815 candidates, marks have been given to 1637 candidates.

9. The scheme of the examination conducted for selection by promotion to the post of Sub-Inspectors of Police is in accordance with Rule 16 of the said Rules. There are three

subjects which are categorized as objective type. Note 2 of Rule 16 provides that a candidate who fails to obtain minimum of 50% marks in each subject shall not be eligible for promotion. The decision of the Board dated 22.02.2011 makes it clear that unless a candidate obtains minimum 50% marks in the objective type subjects, they shall not be entitled to seek evaluation of the Hindi Essay Subject. Such of those candidates who failed to secure 50% marks in the objective type subjects stood disqualified. The Writ Petitioners are in such category. Therefore, their Hindi Essay paper was not evaluated and the marks were not declared. The decision of the Board was taken prior to the date of the examination and no fault can be found with the same. More than 50,000 candidates appeared for the examination and the short-listing of the candidates in stages is within the domain of the Board and cannot said to be arbitrary and discriminatory.

10. The Petitioners are not entitled for extension of the order passed in ***Raghuraj Singh*** (supra). There is no dispute about the fact that the Petitioners-therein were qualified. Whereas, in these writ petitions the Petitioners could not secure 50% marks in the objective type subjects and therefore are not entitled to seek evaluation of the Hindi

Essay paper. Yet another point pertaining to the ambiguity in the process of conducting written examination was raised on behalf of some of the Petitioners. It was argued that subjects C and D were clubbed as one paper. However, they were treated as separate subjects for assessment whether the candidate has secured minimum 50% marks. It is clear from Rule 16 that there are four different subjects and the note to the Rule provides that the candidates should secure 50% marks in each of the subjects to be qualified. Therefore, subjects C and D cannot be clubbed together. It is clear from the sample papers circulated to the candidates much in advance that subjects C and D would be treated separately though both the subjects were clubbed for the purpose of holding examination. Certain errors that were made in the preparation of the list were pointed out by the Petitioners. These Writ Petitions relate to the selection conducted for promotion to the post of Sub-Inspectors pursuant to an advertisement issued in 2010. We are informed by the State Government that the scheme of the examination has also undergone a change. By an order dated 02.12.2020 in SLP (C) No. 28838/2019, this Court refused to entertain any challenge to the same selection process on the ground that several years have gone by. Selections conducted more than

a decade earlier cannot be the subject matter of interference by this Court.

11. For the aforementioned reasons, the Writ Petitions are dismissed.

.....J.
[L. NAGESWARA RAO]

.....J.
[ANIRUDDHA BOSE]

**New Delhi,
July 26, 2021.**