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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A No.1328 of 2024

In the matter of an appeal under Clause-10 of the Letter Patent of Patna High Court read with Article-4 the Orissa High Court Rules, 1948 from a common order dated 23.02.2024 passed by the Single Judge in W.P.(C) No.24199 of 2022.

Odisha Public Service
Commission, Cuttack & another *Appellants*

-versus-

Dr. Sanjay Kumar Panda &
another *Respondents*

W.A No.1330 of 2024

Odisha Public Service
Commission, Cuttack & another *Appellants*

-versus-

Dr. Anil Kumar Sahu & another
Respondents

Advocates Appeared in this case

For Appellant - Mr. A. Behera, Advocate

*For Respondents - Mr. U.K. Samal, (For
Respondent No.1)
Mr. Saroj Kumar Jee, AGA
(For Respondent No.2)*



CORAM :

MR. JUSTICE DIXIT KRISHNA SHRIPAD

MR. JUSTICE CHITTARANJAN DASH

Date of Hearing: 09.02.2026

Date of Judgment: 25.02.2026

Chittaranjan Dash, J.

1. These two Writ Appeals are taken up together as they arise out of a common judgment dated 23.02.2024 passed by the learned Single Judge in W.P.(C) No. 24199 of 2022 and W.P.(C) No. 24195 of 2022, which were heard analogously and disposed of by a common order. The Odisha Public Service Commission (hereinafter referred to as "OPSC"), through its officials being the Appellants herein, lay a challenge to the said judgment whereby the learned Single Judge, while allowing the writ petitions, directed the Appellants to recommend the names of the writ petitioners for appointment to the post of Dental Surgeon (Group-A), Junior, Odisha Medical Service (Dental) Cadre pursuant to Advertisement dated 17.03.2018, within a period of two months from the date of communication of the judgment.

2. The factual matrix of the case giving rise to the present Writ Appeals is that on the basis of a requisition issued by the Health and Family Welfare Department, the OPSC



issued Advertisement No. 15 of 2017-18 dated 17.03.2018 inviting online applications for recruitment to 198 posts of Dental Surgeon (Group-A), Junior in the Odisha Medical Service (Dental) Cadre under the Health and Family Welfare Department. The category-wise vacancy position was notified as follows:

UR – 126 (38-W),

SC – 29 (08-W), and

ST – 43 (13-W);

Totalling 198 posts.

The advertisement prescribed the method of selection as 30% weightage for career marking and 70% weightage for the written examination to be conducted by OPSC. The written examination carried 200 marks comprising 200 multiple choice questions (MCQs), with no negative marking for incorrect answers. The qualifying marks were fixed at 50% for UR and SEBC candidates, 45% for PwD candidates and 40% for SC/ST candidates. Pursuant to the said advertisement, the Respondents along with other eligible candidates submitted their online applications within the stipulated period and paid the prescribed examination fee of Rs.300/-. Admit cards were issued and the written examination was conducted on 06.05.2018.



Thereafter, OPSC published a notice shortlisting 193 candidates, including the Respondents, for verification of documents. The Respondents appeared for such verification, and their documents were found to be in order. It was, however, specifically stipulated that candidature was purely provisional and subject to fulfilment of all conditions of the advertisement. Subsequently, vide Notice dated 09.08.2018, OPSC recommended 171 candidates in order of merit for appointment to the post in question. The names of the Respondents did not find place in the final list. Pursuant to directions of this Court in W.P.(C) No. 13249 of 2018, OPSC published on 18.08.2018 the marks secured by each candidate in the written examination along with the category-wise cut-off marks. The cut-off for UR (Male) was 189.558; SC – 131.673; ST – 120.740; UR (Female) – 188.366; SC (Female) – 129.904; ST (Female) – 125.027; and PH – 146.835. On 20.08.2018, OPSC also published the Answer Key to the written examination.

Upon publication of the Answer Key, certain candidates, including the Respondents, alleged that several answers were incorrect. According to them, 15 answers in the published key were erroneous. Representations were submitted along with standard textbooks and reference materials seeking correction of the answer key and re-



evaluation of answer scripts. A batch of writ petitions, including W.P.(C) (OAC) No. 2542 of 2018 and connected matters, was filed before this Court. Pursuant to directions issued therein, OPSC constituted an Expert Committee, which submitted its report on 05.10.2018. The Expert Committee identified 14 answers in the original key as incorrect and provided corrected answers with standard references.

In the meantime, two candidates under the UR (Female) and UR (Male) categories, namely Dr. Sriprada Dash and Dr. Debashish Sahoo, who had secured 188.108 and 187.934 marks respectively under the earlier merit list, were recommended and appointed vide appointment letter dated 09.03.2019. In compliance with subsequent orders passed by this Court, OPSC revisited the merit list on the basis of the corrected answer key as per the Expert Committee (Report dated 05.10.2018). Upon such revision, the cut-off marks for UR (Male) stood revised to 192.558. On revision, only Dr. Suman Tripathy was found eligible for recommendation. The present Respondents were found to have secured 192.002 marks and 191.210 marks respectively, both being below the revised cut-off of 192.558. Consequently, their names were not recommended to the Government. Aggrieved by non-recommendation despite



correction of the answer key, the Respondents approached this Court by filing W.P.(C) Nos. 24195 of 2022 and 24199 of 2022, inter alia, praying for the following substantive relief:-

“c) Issue Rule Nisi in calling upon the opposite parties as to why the letter dtd. 17.2.2022 under Annexure-4 and letter dtd. 30.7.2022 under annexure-8 shall not be quashed and the Key answers prepared by the Odisha Public Service Commission (Opp.party no.2 and 3) for the written test examination conducted on 06.05.2018 for the recruitment for the post of Dental Surgeon in Group-A (Junior) of Odisha Medical Services (Dental Cadre under Health and Family Welfare Department) shall not be corrected as per the report of the Expert Committee, the answer scripts of the petitioner shall not be re-evaluated and the petitioner's name shall not be recommended to the Government for appointment as Dental Surgeon in Group-A (Junior) as per the advertisement no. 15 of 2017-18 published by Odisha Public Service Commission and the State Govt. Shall not be directed for appointment of the petitioner as Dental Surgeon in Group-A (Junior) as per the advertisement no.15 of 2017-18.”

3. The Appellants having appeared before the learned Single Judge challenged the contentions raised by the Respondents and justified their action to be in accordance with the Rules of the OPSC and the terms and conditions of the advertisement. The learned Single Judge having assessed the contentions of the Parties raised before it, favoured the Respondents and disposed of the Writ Application with the following directions: -



49. In view of the aforesaid analysis of facts as well as legal position, this Court is of the considered view that the impugned rejection order holding that the petitioners are found not eligible while considering the case of Dr. Suman Tripathy for appointment to the post of Dental Surgeon in Group-A (Junior) OMS (Dental Cadre) vide the order dated 30.07.2022, under Annexure-8 to the writ application, is hereby quashed. Further, the Opposite Party-OPSC is directed to recommend the two petitioners as they have secured more than cutoff mark. On such recommendation, the Opposite Party No.1 shall do well to appoint the Petitioner in the post of Dental Surgeon in Group-A (Junior) OMS (Dental Cadre) pursuant to the advertisement under Annexure-1 within a period of two months from the date of communication of a copy of this judgment. The appointment of the Dr. Suman Tripathy, shall stand as she has secured more mark than the cutoff mark. While appointing the Petitioners, the Opposite Parties shall give seniority at par with their batch mates, however, the Petitioners shall not claim any back wages/ salary or other service benefits as they have not worked for such period.

4. The Appellants, represented through the Secretary and Chairman of the OPSC are assailing the impugned judgment of learned Single Judge on the following grounds: –

i. That the direction issued by the learned Single Judge to recommend the names of the Respondents to the Government for appointment to the post of Dental Surgeon (Group-A), pursuant to



Advertisement No. 15 of 2017-18, is contrary to law and unsustainable in the facts of the case.

ii. That the learned Single Judge erred in holding that the OPSC lacked competence to revise the cut-off marks after publication of the initial merit list, particularly when such revision was necessitated by correction of erroneous answer keys based on the report of the Expert Committee.

iii. That the learned Single Judge failed to appreciate that the Respondents had secured 192.002 and 191.210 marks respectively, which are below the revised cut-off mark of 192.558 for the UR (Male) category, and therefore were not entitled to recommendation. It is further contended that pursuant to the revised merit list, there were four other candidates who stood higher in merit but had neither sought re-evaluation nor approached this Court, and that the impugned direction granting appointment to the Respondents overlooks this material aspect, thereby rendering the order legally untenable.

5. The Respondents, on the other hand, represented through their respective counsel, vehemently oppose the grounds urged by the Appellants and contended that the



learned Single Judge is justified in allowing the writ petitions directing the Appellants to recommend their names for appointment to the post of Dental Surgeon (Group-A), Junior, Odisha Medical Service (Dental) Cadre pursuant to Advertisement No. 15 of 2017-18. It is contended that once the Expert Committee found material errors in the original answer key and the merit list stood revisited pursuant to judicial directions, the Respondents could not be denied consideration in accordance with the corrected evaluation. According to them, the action of the OPSC in revising the cut-off score after publication of the earlier merit list, while simultaneously permitting appointments of candidates who had secured lesser marks, is arbitrary and violative of the principles of equality under Articles 14 and 16 of the Constitution. It is further submitted that the learned Single Judge has merely restored fairness to the selection process and no interference is warranted in appeal.

6. The learned Single Judge, upon consideration of the materials placed on record, proceeded on the premise that once the initial merit list was published and recommendations were made on the basis of the cut-off marks declared therein, the OPSC could not subsequently revise the cut-off to the detriment of the writ petitioners. The learned Single Judge held that such upward revision, after



conclusion of the selection process and recommendation of candidates, amounted to altering the selection criteria midway thereby “**changing the rule of game**”, which is impermissible in law. Taking note of the fact that certain candidates who had secured marks lower than the writ petitioners were appointed, the learned Single Judge found the action of the OPSC to be arbitrary and discriminatory. On such reasoning, the writ petitions were allowed with a direction to the OPSC to recommend the names of the petitioners for appointment to the post of Dental Surgeon (Group-A), Junior, Odisha Medical Service (Dental) Cadre pursuant to Advertisement No. 15 of 2017–18.

7. Having heard learned counsel for the respective parties and upon perusal of the memorandum of appeal along with the materials annexed thereto, the questions that arise for consideration before us in the present appeals may be delineated as follows: –

- i. Whether revision of the cut-off marks consequent upon correction of erroneous answer keys amounts to a change in the “rules of the game” so as to vitiate the selection process?*
- ii. Whether the learned Single Judge was justified in directing recommendation of the Respondents*



despite their failure to secure the revised cut-off marks?

iii. Whether, in the facts of the present case, particularly in view of the appointment of certain candidates securing lesser marks, the Respondents are entitled to any equitable or moulded relief?

8. Keeping in view of the factual backdrop, the rival submissions and the reasons assigned by the learned Single Judge, it becomes necessary to advert first to the governing legal principles and thereafter examine their application to the present case.

9. The doctrine that the “rules of the game” cannot be altered after commencement of the recruitment process is a settled principle of service jurisprudence. The Constitution Bench of the Supreme Court in *Tej Prakash Pathak and Ors. vs. Rajasthan High Court and Ors.*, 2024 Live Law (SC) 864 has authoritatively delineated the contours of this principle.

Relevant paragraph is as follows:

“42. We, therefore, answer the reference in the following terms:

(1) Recruitment process commences from the issuance of the advertisement calling for applications and ends with filling up of vacancies;

(2) Eligibility criteria for being placed in the Select List, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules so permit,



or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness;

(3) The decision in **K. Manjusree** (supra) lays down good law and is not in conflict with the decision in **Subash Chander Marwaha** (supra). **Subash Chander Marwaha** (supra) deals with the right to be appointed from the Select List whereas **K. Manjusree** (supra) deals with the right to be placed in the Select List. The two cases therefore deal with altogether different issues;

(4) Recruiting bodies, subject to the extant Rules, may devise appropriate procedure for bringing the recruitment process to its logical end provided the procedure so adopted is transparent, non-discriminatory/ nonarbitrary and has a rational nexus to the object sought to be achieved.

(5) Extant Rules having statutory force are binding on the recruiting body both in terms of procedure and eligibility. However, where the Rules are non-existent, or silent, administrative instructions may fill in the gaps;

(6) Placement in the select list gives no indefeasible right to appointment. The State or its instrumentality for bona fide reasons may choose not to fill up the vacancies. However, if vacancies exist, the State or its instrumentality cannot arbitrarily deny appointment to a person within the zone of consideration in the select list."

10. Similarly, in the book *Services Under the State*, authored by **M. Rama Jois**, while dealing with recruitment jurisprudence, it is observed as follows:



“Subsequent change of qualification - no ground for invalidating an earlier appointment: A person is entitled to be appointed if he possesses the qualification prescribed in the rules of recruitment at the time when the recruitment takes place. When a person who is eligible for recruitment under the rules in force is recruited to the service under the state, his appointment cannot be invalidated on the basis of change in the new recruitment rules.¹ His eligibility would be tested on the basis of the qualification as they stood prior to the change.²

Subsequent derecognition - no effect: The qualification of a person for being recruited is with reference to the date on which he is selected and appointed. Therefore, when the qualification prescribed for recruitment was a diploma in the concerned subject and the qualification possessed by an appointee had been recognised as equivalent to the diploma by the competent authority, termination of service on the ground that the said qualification was subsequently derecognised is illegal.³

Relaxation of qualification: The recruitment in deviation of the published qualifications amounts to arbitrary exercise of power hit by articles 14 and 16 of the Constitution.⁴ Usually, rules regulating recruitment empower the designated authority to relax the qualification prescribed for recruitment to the post. Such relaxation can be made only in public interest and having due regard to the special qualifications, experience or competence of a particular individual. A general relaxation of the qualification invoking such power is wholly without authority of law.⁵ Also no relaxation can be made where persons possessing qualification as advertised are available and have

¹ J J. Murlidhar v. State of AP, SLR 1971 (1) AP 523.

² Gopal Krushna Rath v. M. A. A. Baig, (dead) by LRS, AIR 1999 SC 209.

³ Miss Rashmi v. State of Punjab, SLR 1983 (1) P & 3.

⁴ See Shri Kuldip Chand v. Union of India. 1970 SLR 406 (Del).

⁵ I.S. Goel v. State of Haryana, SLR 1983 (1) P& H 763.



submitted their applications⁶ or where no relaxation clause is mentioned in the advertisement.⁷ Relaxation, however, does not mean doing away with the criteria altogether.⁸

...

At pp. 461: *"No right for appointment:* (a) The mere inclusion in the list of selected candidates does not create a right in a person included in the list to get himself appointed irrespective of the existence of vacancies.⁹ Further in spite of the availability of vacancies, it is open to the appointing authority to appoint out of the list of selected candidates such number of persons according to its requirement.¹⁰ A person included in the list has no right to compel the appointing authority to appoint all the persons included in the list. However, it has been held that the candidates enlisted do enjoy some right in terms of principles of legitimate expectation.¹¹"

At pp. 466: *"Appointing authority has no power to reassess the suitability of selected candidate:* When the law governing the selection and appointment to any post under the State provides for the constitution of a selection committee or board of appointment and the appointing authority is required to make appointments in accordance with the recommendations made by such committee or board, the appointing authority cannot make a reassessment of the suitability of the candidates for appointment and deny appointment to a selected candidate on the ground that in its view he is not suitable for

⁶ Swaran Lata v. Union of India. (1979) 3 SCC 165.

⁷ Virendra Nath Gupta v. Delhi Administration, AIR 1990 SC 1148; Shianda Hasan v. State of UP. AIR 1990 SC 1381.

⁸ K. Shekar v. Indiramma, AIR 2002 SC 1230.

⁹ Also see. Union of India v. Kali Dass Batish, Decided on Jan. 5, 2006; Shankarasan Dash, *ibid*.

¹⁰ Also see, State of UP v. Om Prakash. (2006) 6 SCC 474; Batiarani Gramlya Bank v. Pallab Kumar, (2004) 9 SCC 100; N. Mohanan v. State of Kerala, AIR 1997 SC 189.

¹¹ R. S. Mittal v. Union of India, 1995 Supp (2) SCC 230.



appointment. The decision regarding suitability in such a case is exclusively within the power of the selecting authority. The appointing authority, however, has the power to decline to make appointment if it finds that the selected candidate does not possess the prescribed qualification or suffers from disqualification or that any mandatory procedure required to be followed in advertising the post or making the selection had not been followed.¹²

11. In light of the settled legal position and the reasoning adopted by the learned Single Judge, we now proceed to examine the issues arising for determination in the present appeals.

Issue (i): Whether the revision of cut-off marks pursuant to correction of answer keys amounts to a change in the “Rules of the Game”?

12. The foundational question is whether the act of revising the cut-off marks after re-evaluation of fifteen incorrect answer keys constitutes an impermissible alteration of recruitment norms midstream.

13. The governing constitutional position has been authoritatively settled by the Constitution Bench of the Hon’ble Supreme Court in *Tej Prakash Pathak* (supra). The Court held that the doctrine that the “rules of the game”

¹² Dr. A. V. Venkata Ratnam v. Chancellor, University of Mysore, ILR 1981(1)Kar630: SLR 1981 (2) 486; S. Virupakshaiah v. Chancellor, Bangalore University, ILR 1981 (1) Kar 1068.



cannot be changed after commencement of the selection process is rooted in Articles 14 and 16 of the Constitution. Recruitment begins with the issuance of advertisement and ordinarily the eligibility criteria, method of selection, and standards prescribed therein cannot be altered thereafter. However, the Court clarified that the doctrine is not absolute. A modification may be permissible if founded upon a compelling public interest and if it satisfies the tests of transparency, non-arbitrariness, and rational nexus with the object sought to be achieved. The distinction, therefore, is between the Alteration of recruitment norms (such as eligibility, qualifications, or method of selection); and Rectification of errors in implementation of those norms.

14. In the present case, it is not in dispute that the advertisement prescribed the eligibility conditions and the method of selection. The written examination was conducted in terms thereof. Upon objections raised by the candidates, an expert committee examined the answer keys. Fifteen answer keys were found demonstrably erroneous. Re-evaluation was conducted uniformly for all candidates. The revised cut-off for Male (UR) category shifted from 189.558 to 192.558 as a mathematical consequence.

15. Admittedly, there was no alteration in eligibility, no introduction of a new stage of selection, and no change in the



evaluation scheme. What changed was the accuracy of assessment. The shift in cut-off marks was derivative and consequential, not normative. A candidate cannot claim a vested right in an erroneous answer key or in a merit position founded upon incorrect evaluation. Correction of demonstrable mistakes is an incident of maintaining institutional integrity. A re-evaluation uniformly applied to all candidates preserves, rather than subverts, Article 14. Accordingly, the revision of cut-off marks in the present case cannot be characterised as a change in the “rules of the game.”

Issue (ii): Whether the learned Single Judge was justified in directing recommendation of the Respondents despite their failure to secure the revised cut-off marks?

16. Once it is established that the revised cut-off marks were lawfully determined, the legal consequence is inevitable. Admittedly, upon re-evaluation, the Respondents did not secure marks equal to or above the revised cut-off. Their claim rests upon the earlier cut-off fixed prior to correction of answer keys.

17. It is settled law that inclusion in a select list or securing marks above a cut-off does not confer an indefeasible right to appointment. The Constitution Bench in *Tej Prakash Pathak*



(supra) reiterated that even where vacancies exist, a candidate has no enforceable right to be appointed unless the governing rules so mandate. The State must respect merit order, but the mere fact of shortlisting or provisional qualification does not create a vested entitlement. The revised merit list alone represents the legally sustainable evaluation outcome. Once the correction of answer keys is upheld as valid, the earlier merit position loses juridical significance. The Respondents cannot predicate a right upon a superseded and erroneous evaluation framework.

18. Judicial review in matters of recruitment is circumscribed. Courts do not substitute their assessment for that of expert bodies, particularly in academic or evaluative domains, unless the process is vitiated by illegality, mala fides, or arbitrariness. In the present case, the correction was based on expert opinion and applied uniformly.

Issue (iii): Whether the admitted recommendation of less meritorious candidates during pendency of proceedings vitiates the process and attracts the doctrine of legitimate expectation?

19. On record, the Appellants have admitted that during pendency of proceedings, certain candidates who had secured marks below even the pre-revised cut-off were



recommended and appointed. Two such names, namely Dr. Sriprada Dash and Dr. Debashish Sahoo, were specifically referred to, having secured 188.108 and 187.934 respectively. This development introduces a constitutional dimension distinct from the issue of revised cut-off.

20. The doctrine of legitimate expectation, as observed by the Hon'ble Supreme Court in *Sivanandan C T and Others vs. High Court of Kerala and Others*, AIR ONLINE 2017 SC 609 is grounded in the principles of good administration, as follows:

“43. The underlying basis for the application of the doctrine of legitimate expectation has expanded and evolved to include the principles of good administration. Since citizens repose their trust in the state, the actions and policies of the state give rise to legitimate expectations that the state will adhere to its assurance or past practice by acting in a consistent, transparent, and predictable manner. The principles of good administration require that the decisions of public authorities must withstand the test of consistency transparency, and predictability to avoid being regarded as arbitrary and therefore violative of Article 14.

44. From the above discussion, it is evident that the doctrine of substantive legitimate expectation is entrenched in Indian administrative law subject to the limitations on its applicability in given factual situations. The development of Indian jurisprudence is keeping in line with the developments in the common law. The doctrine of substantive legitimate expectation can be successfully invoked by individuals to claim substantive benefits or



entitlements based on an existing promise or practice of a public authority. However, it is important to clarify that the doctrine of legitimate expectation cannot serve as an independent basis for judicial review of decisions taken by public authorities. Such a limitation is now well recognized in Indian jurisprudence considering the fact that a legitimate expectation is not a legal right. It is merely an expectation to avail a benefit or relief based on an existing promise or practice. Although the decision by a public authority to deny legitimate expectation may be termed as arbitrary, unfair, or abuse of power, the validity of the decision itself can only be questioned on established principles of equality and non-arbitrariness under Article 14. In a nutshell, an individual who claims a benefit or entitlement based on the doctrine of legitimate expectation has to establish: (i) the legitimacy of the expectation; and (ii) that the denial of the legitimate expectation led to the violation of Article 14.”

21. The Hon’ble Supreme Court held that state action must exhibit consistency, transparency, and predictability. While legitimate expectation is not a legal right in itself, denial thereof must withstand scrutiny under Article 14. An individual invoking the doctrine must establish the legitimacy of the expectation; and that denial thereof resulted in violation of Article 14.

22. In the present case, the Respondents participated in a recruitment process where a uniform advertisement was issued; Cut-off marks were notified; and the process was subjected to judicial scrutiny. During such scrutiny,



candidates below the benchmark were recommended. While it is correct that Article 14 does not mandate negative equality, illegality cannot be perpetuated merely because it has been committed in another case, the situation here stands on a different footing. The alleged irregularity occurred within the same recruitment cycle and during the pendency of adjudication. The action was neither explained as an exceptional policy decision nor justified on any rational criteria.

23. Such selective recommendation undermines transparency and predictability in public recruitment. The State, as a model employer, is constitutionally obligated to adhere to uniform standards. Any deviation must be justified on objective grounds. No such justification is forthcoming. At the same time, the Court cannot unsettle appointments already made, particularly when third-party rights have crystallised. The balance between institutional integrity and individual equity must therefore be carefully calibrated.

24. In these peculiar circumstances, the Respondents cannot claim appointment as of right on the basis of the revised merit list. Yet, the admitted selective recommendation of less meritorious candidates during pendency of proceedings introduces arbitrariness in implementation. The exclusion of the Respondents, when



others similarly or less placed were accommodated, offends the constitutional mandate of non-arbitrariness.

25. The appropriate course is not to invalidate the entire selection nor to disturb existing appointments, but to mould relief in a manner that restores parity without unsettling settled rights.

26. Further, in the aforesaid context, it is apposite to observe that revision of answer keys is a remedial measure undertaken to rectify demonstrable errors and does not amount to an arbitrary alteration of the recruitment Rules. Where the initial key answer is found to be incorrect, the authority is under an obligation to correct the same, even if such correction logically results in a change in the cut-off marks.

27. In a catena of decisions, the Courts have held that where the object of the selection process is to identify the most meritorious candidates, correction of erroneous answer keys to ensure preparation of an accurate merit list does not offend the doctrine that the "rules of the game" cannot be altered midstream. The determinative consideration is that any revision in marks or cut-off must be uniformly applied to all candidates without discrimination. It is no longer res integra that a candidate cannot claim a vested right in an erroneous answer key or in a cut-off mark derived from a



flawed evaluation. Where objections are raised and the authority, upon expert scrutiny, corrects the answer key, a consequential adjustment of cut-off marks to reflect the corrected evaluation is legally permissible, provided such action is undertaken to ensure fairness and not to arbitrarily favour or disfavor any individual candidate.

28. In essence, the Courts have consistently drawn a distinction between altering recruitment criteria and correcting mistakes in evaluation. If an answer key is demonstrably wrong, re-evaluation on the basis of the correct key becomes necessary to preserve the integrity of the selection process. Consequently, a resultant shift in the cut-off marks is merely a mathematical consequence of such correction and cannot be construed as an impermissible change in the recruitment criteria or as a modification of the “rules of the game.”

Conclusion

29. In view of the discussions and observations made hereinabove, we respectfully disagree with the learned Single Judge in holding that the revised cut-off marks resorted to by the Appellants pursuant to the re-evaluation of the answer keys amounted to a change in the “rules of the game” and in



declaring the action of the Appellants to be arbitrary on that count.

30. Interestingly, however, it is borne out from the record, as admitted by the Appellants, that while the matter was under judicial scrutiny, the Appellants hastily recommended the names of certain candidates who had secured marks below the cut-off fixed prior to re-evaluation. Two such names appearing on record are Dr. Sriprada Dash and Dr. Debashish Sahoo, who secured 188.108 and 187.934 marks respectively. This demonstrates that candidates less meritorious than the Respondents were also recommended for appointment against the advertised posts. This is indeed disturbing. We do not hesitate to observe that such action on the part of the Appellants reflects a closed-door exercise which has the effect of frustrating a fair recruitment process by resorting to a backdoor method of selection. Such a course is impermissible in service jurisprudence and cannot be countenanced under any circumstances.

31. This is a fit case where the matter requires to be reopened for the purpose of fixing responsibility upon the erring officials and for recovery of exemplary costs, which we quantify at Rs. 5,00,000/- (Rupees Five Lakhs only), in an appropriate enquiry to be conducted under the supervision of the Chief Secretary of the State.



32. Admittedly, the Respondents did not secure the revised cut-off marks so as to be eligible for recommendation after re-evaluation. It has been stated at the Bar that almost all candidates pursuant to Advertisement No. 15 of 2017/18 have been accommodated, barring the present Respondents. It is also evident that such accommodation includes candidates who had secured marks lower than the notified cut-off, both prior to and even after its revision. The Respondents are educationally qualified and otherwise fulfil the eligibility criteria for appointment to the advertised post.

33. While strict adherence to the Rules is the governing norm, Courts, in rare and peculiar circumstances, have intervened to prevent manifest injustice where candidates, owing to compelling circumstances, could not be accommodated despite successfully participating in a duly notified recruitment process. In the present case, the Respondents had legitimately aspired for appointment, having secured the cut-off marks initially fixed by the Appellants. It was only on account of the subsequent re-evaluation of answer keys and consequential revision of cut-off marks that they stood excluded from selection.

34. In these circumstances, and without disturbing the appointments already made, since such appointees have accrued rights to the posts, we are inclined to direct the



Appellants to accommodate the two Respondents against existing vacancies in the post of Dental Surgeon (Group-A), Junior, Odisha Medical Service (Dental) Cadre. Such accommodation shall, however, operate prospectively.

With the above observations, these Writ Appeals stand disposed of, cost being made easy.

A copy of this judgment shall be forthwith communicated to the Chief Secretary of the State for ensuring compliance with the directions contained hereinabove, at Paragraph 31, at the earliest.

(Chittaranjan Dash)
Judge

I, Agree.

(Dixit Krishna Shripad)
Judge

Orissa High Court, Cuttack
The 25th Day of February, 2026/ Bijay