(6)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. Nos. 85, 86, 87 and 88 of 1994

New Delhi this the 17th day of May, 1994

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman
Hon'ble Mr. B.N. Dhoundiyal, Member

1. O.A. 85/94

Shri Ved Prakash Bhardwaj
R/o 1529/1, Mamurpur,
Narela,
Delhi-110040. ...Applicant

O.A. 86/94

Shri Satinder Pal
R/o House No.E-460, Hardevpuri,
Shahdara,
Delhi-110093. ...Applicant

O.A. 87/94

Shri Prakash
R/o 488, Nai Basti, Kishan Ganj,
New Delhi. ...Applicant

O.A. 88/94

Shri Ashok Kumar Sharma
R/o IX/5553, Old Seelampur,
Gandhi Nagar,
Delhi-110031. ...Applicant

By Advocate Shri Anis Ahmed

Versus

1. Union of India through
its Secretary/Chairman,
Telecommunications Commission,
Department of Telecommunications,
Sanchar Bhawan,
Ashoka Road,
New Delhi.

2. Assistant Director General(DE),
Department of Telecommunications,
Dak Bhawan,
Parliament Street,
New Delhi. ...Respondents

By Advocate Shri M.M. Sudan

ORDER (ORAL)

By Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman

Rejoinder-affidavits have been filed in the Court. The same shall be kept on record.

2. The controversy involved in these 4 cases is similar. They have been heard together and, therefore, they are being disposed of by a common judgment.

3. A departmental examination for recruitment of Junior Accounts Officer in the Telecommunications was held in October, 1992. This Examination was to be held in two Parts. Under Part-I of the Examination, a candidate was required to appear and qualify in 5 distinct papers. The qualifying marks in each paper were 40%. The applicants appeared in the aforesaid Examination. Each one of them secured less than 40% marks in one paper or the other. They applied for the retotalling of their marks. They were issued different but similar communications. As a result of retotalling, they were declared qualified in the said Examination. Later on, the respondents discovered that the aforesaid communications had been wrongly sent to the applicants as, in fact, under the garb of retotalling, revaluation had taken place of the relevant papers of each of the applicants.

4. To the counter-affidavit, the relevant rule relating to retotalling and verification of marks, has been annexed. We are concerned with Rule 14(A). This Rule, inter alia, provides that if a candidate desires retotalling of his marks and verification of the facts that all answers written by him are duly assessed by the examiner, he should submit an application in the prescribed form and pay the prescribed fees. Note 1 to the aforesaid Rule provides that it must be clearly understood that the only scrutiny intended in Rule (A) is whether all the answers written by a candidate have been assessed and that there is no mistake in the totalling of the marks.

5. Rule 15 posits that revaluation of answer scripts is not permissible in any case or under any circumstances.

6. Learned counsel for the applicants has vehmently urged that the applicants were in no way responsible for the mistake committed by the respondents themselves insofar as while retotalling the marks obtained by them in the papers, as relevant, clearly a revaluation had taken place. Be

that as it may, we are not here to fix the responsibility of this lapse. This task should be done by some other authority. We are really concerned with the primary question as to whether the respondents, under the circumstances of this case, committed any illegality or irrationality while rejecting the candidature of the applicants in so far as a particular paper is concerned on the ground that they have been wrongly informed that they had obtained the qualifying marks in the papers concerned. It is a trite law that no litigant can derive any advantage of the illegality committed by the department. This is enough to dispose of these O.As.

7. Learned counsel has urged, on the basis of the some averments made in the rejoinder-affidavit, that the respondents in the case of two candidates who were similarly situate, like the applicants, gave them the benefit of revaluation though they had merely applied for retotalling of their marks. One instance, which has been pointed out to us, by means of documents filed in the rejoinder-affidavit, relates to one Shri Ramesh Chander. It appears that Shri Ramesh Chander had secured 50 marks in Paper No.III. It will thus be clear that he had obtained the qualifying marks in the said examination in the said Paper. It appears that, on retotalling of the marks, it was discovered that he had secured 52 marks instead of 50 marks. It may be that there may be a bona fide mistake while totalling the marks in that paper. We have already indicated that there is a difference of only two marks. It has also to be noted that Shri Ramesh Chander had obtained the qualifying marks in the Paper. Nothing will turn, therefore, upon the fact that in the case of Shri Ramesh Chander upon a retotalling there was an increase in the marks obtained by him.

8. The applicants are not entitled to any relief. We dismiss the O.As. but without any order as to costs.

9. The interim orders passed in these cases are

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hereby vacated.

Let a copy of this order be placed in all the 4 case files.

(B.N. DHOUNDIYAL)
MEMBER (A)

(S.K. DHAON)
VICE CHAIRMAN

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