

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

14

O.A.No.221/89

New Delhi, this 23rd day of February, 1994

HON'BLE SHRI C.J.ROY, MEMBER (J).

HON'BLE SHRI P.T.THIRUVENGADAM, MEMBER (A).

Shri T.K.Banerjee son of
late Shri S.K.Banerjee,
E-70, IARI, Pusa, New Delhi.

..Applicant

(By Shri J.K.Bali, Advocate)

Vs.

1. Secretary, Indian Council
of Agricultural Research,
Krishi Bhawan, New Delhi.

3. Chairman, Agricultural
Scientist Recruitment Board
Pusa Campus near Pusa
Main gate, New Delhi.

2. Director (Finance),
Indian Council of Agricultural
Research, Krishi Bhawan,
New Delhi.

..Respondents

(By Shri CP Pandey, Advocate)

ORDER

(Delivered by Hon'ble Shri P.T.Thiruvengadam, Member(A)).

The applicant in this O.A. while working as Senior Clerk in the office of Director, Indian Agricultural Research Institute appeared in the Audit & Accounts Examination held in September, 1987 by the Indian Council of Agricultural Research (ICAR). The passing of this examination is necessary for further promotion to the post of Superintendent (Audit & Accounts). The result of the examination was communicated in ICAR's letter dated 15-1-1988 and the applicant's name was not included in the pass list (i.e. the list of those who obtained an average of 50% overall with not less than 45% marks in each paper). His name was, however, included in the list of exempted candidates containing the names of those who had not passed the examination but who had obtained not less than 50% marks in these papers out of the total of five papers prescribed. The applicant was exempted against paper No.IV.

While communicating the marks sheet to the candidates vide ICAR's letter dated 26-2-1988, the candidates were given an opportunity for making a request for re-evaluation/rechecking of the answer books. This opportunity was availed by the applicant but even after re-evaluation/rechecking, there was no change with regard to performance of the applicant in the said examination.

2. The qualifying ~~and exemption~~ marks for the examination were changed to 45% in aggregate and 40% in each individual paper with certain other changes with regard to exemption marks, effective from the audit & accounts examination held subsequent to 25-11-1988.

This O.A. has been filed seeking the following reliefs:-

- a) Declare the applicant as having qualified for the post of Superintendent (Audit & Accounts) on the basis of his performance in the 1987 Audit & Accounts Examination keeping in view the revision of norms as per Annexure A-9, or in the alternative;
- b) to have the grace marks awarded as has been done in the case of the seven candidates (mentioned in para 4.14 of O.A) subsequently declared successful.

3. The following grounds were advanced by the learned counsel of the applicant:-

- (i) The persons who evaluated answer papers were not advised of the minimum qualifying marks. It was necessary to specifically communicate this to the examiners since ~~it was done~~ in all similar audit & accounts examination held by other departments, the minimum marks for aggregate/~~of~~ individual papers are only 45%/40% respectively.

- (ii) Such a communication was not given even at the stage of re-evaluation.
- (iii) The papers were got re-evaluated locally in the ICAR instead of sending them to the original examiners.
- (iv) Grace marks were specially recommended for by the Director (Finance) of ICAR for seven candidates, though this recommendation was not accepted. On the re-evaluation, the same seven candidates were declared to have qualified.
- (v) Examination was not conducted by ASRB but by the Council.

4. The learned counsel for the respondents refuted the issues raised by the applicant. It was contended that the scheme of examination for audit & accounts in ICAR which mentions, among others, the minimum percentage for passing, exemption etc., is published and it is not necessary to intimate the examiners of the pass percentages.

(ii) The re-evaluation/rechecking was got done from the original examiners and not locally as alleged.

(iii) The revised pass percentages were brought into force only for examination conducted on or after 25-11-1988 and cannot be ^{extended} ~~upheld~~ retrospectively as per approval of the governing body of the Council in its meeting held in September, 1988.

(iv) No grace marks were given to any candidate and re-evaluation/rechecking was done in all these cases where the candidates had asked for such an opportunity.

5. At this stage the ld. counsel for the applicant requested that the file relating to the recommendation

for grace marks/re-evaluation may be called for. Accordingly we directed the respondents to produce the relevant file. We note that the recommendation for grace marks was based on certain reasonable norms, ⁱⁿ that only ^{for} these candidates who had obtained only good marks in all subjects excepting one or two, suggestion for giving grace marks ^{ed} (restricting from 2 to 7 marks) was made. The recommendation was for those candidates who fulfilled the self-made norms. In any case this recommendation was not accepted. Even out of this only 5 candidates could obtain pass marks at the re-evaluation stage. ~~and~~ We do not find any malafides in this procedure.

6. As regards ^{the} contention that the examination was not conducted by ASRB as per the scheme and was conducted by the Council, it does not ^{lie} ~~lie~~ in the mouth of the applicant to raise this issue at this stage of argument (it was not even raised at the time of filing of the O.A.) and particularly after appearing in the examination without any protest.

7. Though a number of ^{issues} ~~double~~ have been raised by the applicant, we note that the relief claimed is for the application of revised norms for pass percentages to the 1987 examination. This relief cannot be granted since the Governing Board in a Governing Body meeting had changed the norms subsequent to 1987 examination. The alternative relief claimed, namely, grace marks should be awarded as has been done in the case of 7 candidates subsequently declared successful, is also liable to be dismissed since no grace marks were awarded. The other grounds raised are not germane to the reliefs prayed for

...contd.

in this O.A.

8. In the circumstances, the O.A. is dismissed.

No costs.

P. J. J. J.

(P.T.THIRUVENGADAM)
Member (A).

(C.O.ROY) 25/2/94
Member (J)

Mallick