

**Central Administrative Tribunal
Jammu Bench, Jammu**

Hearing through video conferencing

Tuesday, this the 18th day of August, 2020

OA No.61/465/2020

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Dr. Bhagwan Sahal, Member (A)**

Atul Kumar,
Aged 38 years,
S/o Sh. Sushil Kumar,
R/o 105/4 Vayu Vihar,
Air Force Station,
Jammu.
Pin No.180003.

...Applicant

(By advocate: Mr. Kapil Gupta)

Versus

1. Union of India through
Secretary to Defence,
Ministry of Defence,
Government of India,
New Delhi.
Pin No.110011.
2. Commandant,
College of Military Engineering,
Pune,
Pin No.908797,
C/O 56 APO.

3. Director General (Pers)/EIC
HQ Military Engineering Services,
Engineer-in-Chief's Branch,
Kashmir House,
Rajaji Marg,
New Delhi-110011.
4. HQ Chief Engineer,
Northern Command,
Pin No.914698,
C/o 56 APO.
5. Chief Engineer,
HQ (Air Force)
Udhampur,
Zone Military Engineer
Services (MES)
1716, FPO,
Pin 936839
C/O 56 APO.
6. Commander,
HQ CWE (AF) Jammu,
C/o 256 SU, AF
Pin No.937256
C/o 56 APO.
7. Garrison Engineer (AF)
Air Force Station, Jammu.
Pin No.180003.

...Respondents

(By advocate: Mr. Raghu Mehta)

ORAL ORDER

{As per Hon'ble Mr. Justice L Narasimha Reddy, Chairman}



The applicant is working as Junior Engineer in the Military Engineering Services (MES). The promotion from that post is to that of Assistant Engineer. It is on the basis of the performance in the written test. A test was conducted and the applicant participated therein. The result declared on 14.06.2019 and the applicant was not successful. Thereafter the applicant went on making representations one after the other, with the request that his answer scripts be reviewed. He stated that though he performed well in the examination, he was awarded relatively less marks. One such representation is dated 02.12.2019, wherein he wanted review of the answer scripts and thereafter the modification of the result. On a consideration of the same, the College of Military Engineering Services replied by stating that the application for review is required to be made within three months from the date of publication of results and since it is made beyond the period, it cannot be considered. This OA is filed challenging the order dated 31.01.2020 and with a direction to the respondents to promote the applicant to the post of Assistant Engineer, with effect from the date on which the other selected candidates were appointed.

2. Mr.Kapil Gupta, learned counsel for the applicant submits that the respondents have invoked a wrong provision in rejecting the

representation. He contends that the effort of the applicant was to seek revaluation of the answer scripts and since there is no prohibition under the relevant rules, the request ought to have been acceded to. He has referred to various representations made by the applicant.



3. We heard Mr. Raghu Medha, learned Senior Central Government Standing counsel for the respondents. He submits that there is no provision for revaluation under the relevant rules and the request of the applicant cannot be acceded to. He further submits that the applicant himself is not clear as to whether he wants review or revaluation and representation dated 02.12.2019 was for review and the respondents have invoked relevant provision and passed the impugned order.

4. The applicant was not successful in the competitive examination for promotion to the post of Assistant Engineer. He went on making representations stating that, though he performed well, he was not awarded the corresponding marks. This is common in every examination. Ultimately, what counts is the evaluation done by the examiner and not the expectation of the candidate.

5. In his representation dated 02.12.2019 the applicant prayed for as under :

"(a) My RTI application dated 05 Jul 2019 requesting to provide answer sheets & question papers. However, only answer sheet was provided vide CME Pune, letter No.9324/140/MS dt 23 Sep 2019 received on 30 Sep 2019. As such It is again requested to provide question paper also.

(b) My application for revaluation of answer sheet dated 21 Oct 2019.

(c) CME Pune letter No.9852/RTI/331/GT dt 01 Nov 2019.



2. With profound regards, It is brought to your notice that I was appeared in subject exam held in Jan 2019. Though, I had done best in the exam in all fairness but the result declared in Jun 2019 disappointed me and I feel aggrieved as the same is detrimental to my provision/career aspirations.

3. Accordingly, I had submitted an application dt 21 Oct 2019 to the CME for revaluation of answer sheet for Improvement in marks duly justifying that the answers are written "to the point in sufficient words" or "duly covering all the key points" etc along with supporting documents viz., copies of respective paras of RMES/DWP/Precies. However, the same is resubmitted now through proper channel as asked by CME.

4. Though, I am certain with your magnanimity, my following grievances would be redressed shortly:-

(a) Marking of the answer sheet should be reviewed with regards to the answer for the questions given in respective paras of RMES/DWP/Precies (supporting documents att).

(b) Necessary amendment to the result issued vide CME Pune letter No.9846/P/MES/241/GT dt 14 Jun 2019 should be published.

6. He expressly used the word review and taking that into account the respondents stated that the review can be made within three from the date of publication of result and, since the representation was made beyond that period, they expressed their inability to consider the representation.

7. Assuming that the applicant wanted the revaluation of the answer scripts, it is fairly well settled that the revaluation is not something which can be inferred. It is only when the relevant rules provide for, that

reevaluation can be undertaken and not otherwise. To a specific question as to whether the respondents have accepted the request for reevaluation at any point of time, no convincing reply is forthcoming from the applicant.



8. We do not find any merit in this application and the same is accordingly dismissed. There shall be no order as to costs.

(DR.BHAGWAN SAHAI)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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