

OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 16th day, of January, 1997

Original Application No. 1161 of 1996

District : Allahabad

CORAM:-

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T.L. Verma, J.M.

Luxmi Kant Srivastava S/o Late Achal Bihari,  
R/o 88-B, Subedarganj, Allahabad.

(By Sri Vimlesh Srivastava, Advocate)

. . . . . Applicant

Versus

1. Union of India, through General Manager  
Northern Railway, Baroda House, New Delhi.
2. The F.A. and C.A./Administration, Northern  
Railway, Baroda House, New Delhi.

. . . . . Respondents

ORDER (Oral)

By Hon'ble Mr. S. Das Gupta, A.M.

This application has been filed under Section 19 of the Administrative Tribunals Act 1985, praying that the answer book of the applicant for the paper of general expenditure in the Accounts Clerk Grade II Examination, 1985 be summoned and revaluated and the applicant be declared passed in the said examination, directing the respondents to ~~promote~~ the applicant on the post of Accounts Clerk Grade-I.

2. The applicant who is working as Accounts Clerk Grade-II had appeared in 1985 in an examination for promotion to the post of Accounts Clerk Grade II in 1985.

Wf.

When the list of promotion was published, the applicant came to know that he had failed in the examination and as such he was not promoted. On enquiry, ~~he found~~ he found that while he had passed in other subjects, in the optional subject of General Expenditure he was given only 39 marks as against qualifying marks of 40. The applicant's case is that he was ~~been~~ deliberately failed in the examination by being given one mark less than the qualifying mark in the General Expenditure paper. He claims that he had done very well in the paper and, therefore, he had earlier filed an OA No. 126/1994 praying that his answer book be summoned for revaluation. That OA was disposed of in limine by a Bench of this Tribunal by the order dated 4-3-1994 directing the applicant to file a representation and also directing the respondents to consider the representation, if filed by the applicant, within a certain period.

3. In the present OA the applicant has stated that despite his filing a representation and also several reminders the said representation was not considered and hence he has approached the Tribunal again through the present application.

4. In the earlier OA a specific direction was given to the applicant for filing representation and <sup>to</sup> respondents to consider the representation, if filed. The applicant has claimed that he has filed a representation ~~and~~ which was not considered by the respondents. The applicant <sup>and</sup> ~~have~~ therefore, approached this Tribunal for initiating proceedings for non-compliance with the Tribunal's direction. This was, however, not done.



5. The applicant's claim is based only on the plea that he had done well in that paper. He has failed only by one mark and that this was a deliberate act on the part of the respondents. There is not even a whisper in the OA that there was any bias on the part of the respondents against the applicant, nor has anyone been impleaded by name. We cannot, therefore, accept that the failure of the applicant in a particular paper was due to bias on the part of the respondent. Had that been so, he would not have passed in the other papers and the respondents would have taken care that he failed in the General Expenditure paper, not by one mark but by sufficient margin. Moreover, this Tribunal cannot reevaluate a paper. ~~No~~ Such revaluation can be done <sup>only</sup> by appropriate administrative authorities who were given <sup>a direction</sup> to consider the applicant's representation.

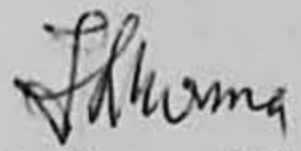
6. In view of the foregoing, we are not satisfied that any case has been made out by the applicant, which requires our interference. We would, however, like to observe that when the Tribunal had given a specific direction, it was incumbent upon the respondents to comply with the same and even though we cannot take any notice of such alleged non-compliance in our contempt jurisdiction after a lapse of the period of limitation prescribed in the contempt of Courts Act, we are of the view that it would be just and proper on the part of the respondents to consider the

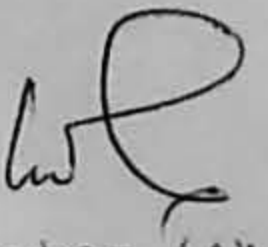
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representation of the applicant if filed and <sup>to</sup> dispose  
it of by a speaking order.

7. With the aforesaid observation this application  
is dismissed at the admission stage itself.

  
Member (J)

  
Member (A)

Dube/