

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00354/2015

Thursday, this the 18th day of March, 2021

C O R A M :

Hon'ble Mr.P.Madhavan, Judicial Member
Hon'ble Mr. K.V.Eapen, Administrative Member

Arjun K.P
Karadan House,
Ulliyeri, Kozhikode

Applicant

(Advocate: Mr.P.P.Jacob)

v e r s u s

1. The Staff Selection Commission, Government of India
New Delhi, Pin – 110 001, represented by its Chairman
2. The Staff Selection Commission Karnataka
Kerala Region First Floor
E Wing, Kendriya Sadan
Koramangala, Bangalore
Pin – 560 034
Represented by its Regional Director
3. The Union of India
Ministry of Labour & Employment
Shashtri Bhavan
New Delhi, Pin – 110 001

Respondents

(Advocate: Mr.N.Anilkumar, SCGSC)

The OA having been heard on 16th March, 2021, this Tribunal delivered the following order on 18.03.2021:

ORDER**By P.Madhavan, Judicial Member**

This Original Application is filed seeking the following reliefs:

“i. Declare that the applicant is entitled to get appointment based on the inclusion of the name of the applicant in Annexure V final list recommended for appointment and that the deletion of the name of the applicant by publishing Annexure I revised final list is illegal and unsustainable before law.

ii. Call for the records and files relating to the publication of Annexure I list and set aside the same to the extent it apply to the applicant and direct the respondents 1 and 2 to recommend and forward the name of the applicant for appointment to the post of Income Tax Assistant with further direction to give appointment to the applicant immediately.

2. The applicant's case is as under:

The applicant applied for the Combined Graduate Level Examination notified in the year 2013 for various posts. There were two level examinations for the selection i.e., Tier I Examination and Tier II Examination. The respondents conducted Tier I and II Examinations in the year 2013. But some of the candidates filed an Original Application before the Principal Bench and the Principal Bench set aside the examination and directed to conduct the same again. The Combined Graduate Level Examination was again conducted in June 2014 and August 2014 respectively. The respondents published a list of eligible candidates selected for interview in October 2014. The applicant was one who was selected and recommended for interview. The applicant received an interview card to participate in the interview on 13.1.2015. There was a computer proficiency test also on that day. The applicant was declared successful in the written

test and interview conducted as referred above. The name of the applicant was included at Sl.No.9651 vide roll No.9206500095 for the post of Income Tax Assistant. The list of candidates who were selected is produced as Annexure A4. Without any right or authority, the respondents 1 and 2 arbitrarily deleted the name of the applicant and some other candidates and published another list which is impugned in this case as Annexure A-1. There is no explanation or any valid reason furnished by the respondents for deleting or omitting the name of the applicant. The final list which is produced as Annexure A5 was changed. The revised selection list is the impugned order in this case. According to the applicant, the respondents have no right to cancel the result published and prepare another select list. The applicant ought to have been considered for the post as he got higher marks in the written test. Annexure A-5 select list is conclusive and there is no reason to change the said select list. The applicant seeks to declare that he is entitled to get appointed based on the select list Annexure A5 and also to set aside Annexure A-1 to the extent it applies to the applicant in this case.

3. The respondents entered appearance and filed a detailed reply statement denying the allegations made in the O.A. According to them, the O.A is not maintainable either in law or in facts. The applicant was provisionally selected for the post of Tax Assistant and appeared in the final list published on 12.3.2015. According to the respondents, the applicant had scored 391.25 and the lowest marks for selection was 393.50. According to the respondents, the applicant had participated in the test and he had 60.24465 percentage mistakes. So he could not succeed in the test. The

maximum permitted mistakes for OBC category is only 7 percent. So the applicant was not selected for non-interview posts as he scored only 391.25 marks in the aggregate. The lowest mark for the selected candidate in the aggregate was 393.50. The respondents had not arbitrarily cancelled the earlier select list dated 12.3.2015. It was cancelled only because of some discrepancies appeared due to system error. Immediately, they published the mistake as Annexure R1(a) and carried out the corrections in the system and published a fresh list. There is no arbitrariness in this act. It is only for the purpose of giving appointment to the eligible candidates.

4. The applicant in this case has filed a rejoinder contending that the respondents had arbitrarily cancelled the select list. He contends that passing in the DEST is not a must. According to him, he has obtained 391.25 marks in the written test, and some of the candidates who got 377.25 marks were also seen selected in the final select list. The marks obtained in the written test will weigh over the Data Entry Test. The respondents had given undue weightage to candidates who passed the Data Entry test. The mistake occurred in the system is not a reason for cancelling the result already published.

5. We have heard the counsel appearing for the applicant as well as the respondents in this case.

6. On a perusal of the pleadings and annexures, it appears that the respondents had immediately published the reason for cancellation of the first select list dated 12.3.2015 as the Commission had noted discrepancies occurring in the list due to system error. Therefore, the Commission had decided to incorporate the necessary changes in the system. They have

given a detailed report regarding the same as Annexure R1(a). Even the applicant has no dispute regarding the system error occurred and his main argument is that passing of the Data Entry test is not important since he had scored high marks in the written test. But the counsel for respondents would submit that the passing of test is absolutely necessary and it is specifically stated in the notification published by the Commission. A true copy of the notification is produced as Annexure R2. When there is a patent error occurring in a select list, it is the duty of the respondents to correct the same and publish a fresh list. The applicant has not challenged the select list produced as Annexure A1. His main case is that even though he got sufficient marks, he was omitted in Annexure A1. It has come out from the pleadings that the applicant has failed in the basic test since he got 60% mistakes. A person from OBC category can have a maximum of 7% mistakes.

7. So he has failed in the examination and there is no merit in the case put forward by the applicant. **We find no merit in the contentions put forward by the applicant. The OA is devoid of any merit. In the result, the OA is dismissed. No order as to costs.**

(K.V.Eapen)
Administrative Member

(P.Madhavan)
Judicial Member

List of Annexures

Annexure I : True photocopy of the revised list published by the respondents 1 & 2 excluding the name of the applicant and some others, relevant pages 1, 183, 184, 185 and 186.

Annexure II : True photocopy of the notification published dated 19.1.2013 by respondents 1 & 2, relevant pages 1, 21, 22, 23 & 24.

Annexure III: True photocopy of the letter of interview issued to the applicant by the respondents 1 & 2 dated 9.12.2014.

Annexure IV: True photocopy of the letter of interview issued to the applicant by the respondents 1 & 2 dated 20.12.2014.

Annexure V: True photocopy of the final list published by the respondents 1 & 2 recommending appointment, relevant pages 1, 193, 194 & 195.

Annexure R1(a): True copy of the write up published by the Commission while declaring the result.
