

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/236/2021

HYDERABAD, this the 18th day of March, 2021

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member



G. Surendra, Gr. 'C'
S/o. G. Jaya Ramudu,
Aged about 42 years,
Occ: Pharmacist,
O/o. The Assistant Chief Medical Superintendent,
Health Unit, Hyderabad Division,
South Central Railway,
Kacheguda, Hyderabad – 500 027.

...Applicant

(By Advocate : Sri K.R.K.V. Prasad)

Vs.

1. The Union of India rep. by
The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
2. The Principal Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.
3. The Divisional Railway Manager,
South Central Railway, Hyderabad Division,
Hyderabad Bhavan, Secunderabad.
4. The Senior Divisional Personnel Officer,
South Central Railway, Hyderabad Division,
Hyderabad Bhavan, Secunderabad.

... Respondents

(By Advocate: Smt. A.P. Lakshmi, SC for Rlys.)

ORAL ORDER
(As per Hon'ble Mr. B.V. Sudhakar, Admn. Member)



2. The OA is filed questioning the action of the respondents in not evaluating the answer sheet of the applicant properly and for a direction to the respondents to award marks to certain questions and declare him as qualified in the selection for the post of Staff & Welfare Inspector notified on 08.11.2017, by setting aside the proceedings dt. 24.07.2018 and 28.12.2020 and grant all consequential benefits.

3. Brief facts of the case are that the applicant appeared in the exam held on 27.6.2018 for selection to the post of Staff and Welfare Inspector, by the respondents against notification dated 8.11.2017. Respondents declared that none qualified in the exam. Applicant represented on the basis that wrong questions were framed and for the right answers given by the applicant, marks were not awarded. As no relief was forthcoming, OA 107/2019 was filed, wherein it was directed to appoint a committee to go into the matter and decide. Respondents complied with the same and communicated that there is no change in the marks awarded. When a copy of the report of the committee was asked, it was turned down. Aggrieved, OA is filed.

4. The contentions of the applicant are that the respondents not supplying the committee report is violation of the Principles of Natural Justice. The Tribunal to examine as to whether the answers written by the applicant merit consideration of awarding marks, since the applicant lost

the selection by 1 mark. The key pertaining to the objective questions was not properly prepared. Articles 14 & 16 of the Constitution have been violated.

5. Heard both the counsel and perused the pleadings on record.



6. I. The dispute is about non selection of the applicant as Staff and Welfare Inspector by not properly evaluating the answers. The applicant lost the selection by one mark and he claims that the respondents have not properly evaluated the responses given by him in the exam. The issue came up for consideration in OA 107/2019 wherein it was directed to form a Committee comprising of appropriate members from a different division, other than the one where the applicant was working, to go into the issue and decide. Respondents have complied and found that the marks awarded require no change. The applicant pleads that the Tribunal need to go through the answers so as to examine as to whether the applicant merits award of additional marks since he has missed the selection by one mark. We empathize with the applicant but the Tribunal does not have the expertise nor is it competent to do so, as observed by the Hon'ble Punjab-Haryana High Court in **Shweta Dhull And Ors vs State of Haryana & Anr. on 13 August, 2019** in C.W.P.No.15002 of 2019 (O&M) as under:

"I need not extract the ratio decidendi culled out with regard to the role of the Court to sit on the arm-chair of the expert. I would be citing only one judgment on this point in order to avoid repetition, i.e., Varun Chandiook Vs. Haryana Public Service Commissioner and another, 2015 (3) S.C.T. 826.

Paras 9 and 10 of the same read thus:-

"9. We do not find that the said judgment provides any assistance to the arguments raised. The action of the University in giving credit to all the students, whether they have attempted the questions or not, was found to be unjustified. In the present case, the examining body has

taken a conscious decision that credit or discredit of such questions shall not be given to any student irrespective of the fact whether a student has attempted such questions or not. Therefore, all students have been assessed on the basis of 120 questions rather than on the basis of 125 questions. Numerous eventualities can be conceived as a result of such decision; such as, a candidate, who has answered the questions correctly, has been deprived of the marks, whereas a candidate, who has not understood the questions correctly and not attempted the same or attempted wrongly, would stand to benefit.



10. In a writ petition, we are not to examine the numerable circumstances, which may ensue as a result of deletion of such questions. As a part of judicial review, the jurisdiction of this Court is to examine the decision making process. Whether the decision making process of deleting the questions is so arbitrary, unreasonable or irrational that it cannot be sustained. The examining body is the most suitable to decide, whether such questions are vague or the options are incorrect or not possible. Such decision of the examining body has to be respected. The decision of the examining body that questions need to be deleted cannot be said to be arbitrary, unreasonable or irrational, which may warrant interference by this Court in exercise of its writ jurisdiction."

Therefore, based on the above legal proposition, the Tribunal cannot entertain any pleas to evaluate the answers. A Committee has gone into the issue and found that the marks awarded require no modification. Beyond that it is not the purview of the Tribunal to intervene. Moreover, after failing in the exam, the applicant cannot question the examination process as observed by superior judicial fora as under:

Punjab-Haryana High Court in **Kavita Kumari vs State of Haryana**

And Others on 27 August, 2019 in CWP-22720-2019 (O&M)

"2. The petitioner after having participated in the selection process under the Rules cannot be permitted to challenge the same in view of the law laid down by the Hon'ble Apex Court in the case of Madras Institute of Development Studies and another Vs K. Sivasubramaniyan and others (2016) 1 SCC 454 holding that once participated in the selection process, an applicant cannot be permitted to take a u-turn only because he could not qualify and was unsuccessful."

II. However, we are surprised as to why the respondents are hesitant to share the committee report to the applicant. We are in the era of

RTI and information required has to be made available, as provided for by the various provisions of the RTI Act. In fact, the RTI Act lays down the responsibility of voluntary disclosure of information to bring about transparency in administration. Therefore, we direct the respondents to provide a copy of the committee report sought by the applicant within a period of 8 weeks from the date of receipt of this order.



III. With the above direction, the OA is disposed of, at the admission stage, with no order as to costs.

(B.V. SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/evr/