

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

O.A. No.46/2017

Reserved on:27.08.2021

Pronounced on:02.09.2021

**Hon'ble Mr. Dinesh Sharma, Member (A)
Hon'ble Mrs. Hina P. Shah, Member (J)**

Abhishek Chaturvedi S/o Late Shri N.K.Chaturvedi, aged about 34 years, R/o 6/469, SFS, Mansarovar, Jaipur. Presently working as Clerk in the Commercial Department, Head Quarter Office, NWR, Jaipur.

...Applicant.

(By Advocate: Shri Amit Mathur)

Versus

The General Manager (P)), Head Quarter Office, North Western Railway, Malviya Nagar, Jagatpura, Jaipur.

...Respondent

(By Advocate: Shri P.K.Sharma)

ORDER

Per: Dinesh Sharma, Member (A):

In this OA, the applicant has prayed for declaring him successful in the written examination held following Notification dated 29.10.2015 Annexure A/3), and consequentially, grant him appointment to the post of Office Superintendent. The applicant claims that two of his answers in this examination, though correct, were wrongly assessed as incorrect and negative marks given. If it was not done this way, he would succeed in the examination and

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consequently get selected to the post of Office Superintendent. The two questions, in issue, are as follows:-

“Q.6 What is the notice for limited tender ?

(A) 30 days (B) 15 days (C) 10 days (D) none of above.

Q.8 The dealer will check the enclosures of the clerk receipts and if any enclosure is found missing he will initiate..... it (obtain/return)?”

2. The applicant claims that the correct answers to these questions are (b) 15 days and “return” respectively, and he had correctly answered these questions. Applicant has stated that the same questions were asked in the year 2008, and the Answer Key of 2008 Examination (Annexure A/6) reveals the above mentioned answers as the correct answers. The applicant has also annexed extracts from book Tenders, Contracts and Arbitration where minimum tender period is provided as 15 days (Annexure A/7). The applicant has stated that the department’s reasoning, in response to his queries, that his answers are found to be wrong on the basis of the information provided by the Stores Department with respect to these questions, is uncalled for. There was no mentioning of Stores Department tender in the question paper. There are still a number of posts vacant as only 80 candidates had participated against the 167 posts advertised.

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3. The respondent has denied the claims made by the applicant. It is stated that the examination for the post of Office Superintendent was conducted on 03.04.2016, in pursuance to the Notification dated 29.10.2015. The applicant's name was not included in the result of successful candidates since he failed to obtain the required qualifying marks. The correct answers to the two questions mentioned in the OA were "(d) none of the above" and "obtain" respectively. As per Para 1.2.6 of the rules for entering into supply contract issues by Stores Directorate, Railway Board, no time limit has been prescribed for notice for limited tenders, and thus "(d) none of the above" was the correct answer. Similarly, as per the office procedure the dealing employee has to receive all the documents and any deficiency is required to be made good by necessary correspondence to obtain the same. Thus, the correct answer to Question No.8 is "obtain". The Department has re-verified the answers to Question Nos. 6 and 8 in pursuance of the representation of the applicant and on such reassessment also, it is found that there was nothing wrong in the earlier assessment. The reply also states that the Model Answer Key prepared in the year 2008 need not be correct and cannot be taken as the final answer key. The Railway Board has directed the question setter to provide

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the correct answers to avoid chances of mistakes by the evaluators. The reply reiterates (what the department has informed the applicant) that the Question No.6 was related to Stores Department and on confirmation from the Store Department, it was found that there is no time limit of notice given by the Railway Board.

4. No rejoinder has been filed.

5. The matter was heard on 27.08.2021. The learned counsels of both the parties reiterated their respective positions as stated in their pleadings. The learned counsel for the applicant added, by way of adding emphasis, that the applicant's answers were correct and it was as clear as sun rises in the east, and therefore there should not have been any doubt about the correctness of his answers. There was no need of confirming the answers from the Stores Department and there was no mention of the Stores Department in the question paper. It was stated by the learned counsel for the respondent that it is the Stores Department which is responsible for purchases/procurements and that was the reason for the department checking the correctness from that department. There was no need to mention this in the question paper.

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6. After going through the pleadings and hearing the arguments, it is clear that the whole matter rests on the two questions (and their answers) mentioned in Para 2 above. The applicants says, based on the model answer sheet published for the same questions in the year 2008 and another private publication, that the answers given by him are correct. The respondent denies this and say that the answers are wrong. The respondent has checked and re-verified and found the answers of the applicant to be wrong. The question before us is whether we should take the job of the answer-sheet evaluator and start evaluating the answers (based on information brought on record or on whatever we can take judicial notice of) every time a candidate raises an issue about the evaluation of an answer. The answer, in our considered opinion, is that we should refrain from doing so unless there are apparent inconsistencies/incorrectness or omissions (failure to evaluate answered questions) visible on the face of the record. We should certainly do so when there are substantiated allegations of mala-fides/extraneous factors in the evaluation process. We may also intervene if there is such a gross mistake (e.g. the one pointed out by the learned counsel for the applicant, of "sun rises in the east" being evaluated as an incorrect answer) that no one in their right mind would fail to interfere. We do not find the

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present case to be falling into any of these categories. Both the answers (the ones given by the applicant and the ones which the department considers as right) could have been right under certain circumstances and the matter is not as clear as daylight or as black and white as the learned counsel for the applicant would like us to believe. The answers might have been suggested as the correct answers in the model answer sheet published in the year 2008, but, as argued by the respondent, and we agree with that argument, that might not be the situation in every case and at every time. The material on Tender Contracts and Arbitration (a private publication of 2011, allegedly downloaded from Internet, Annexure A/7) cannot be considered an authoritative document of the Railways Department. Thus, we do not agree with the averment of the applicant that his answers are the correct answers just because they tally with the 2008 model answer sheet and are also supported by the book downloaded from the Internet. Since all those appearing in this examination have been assessed with the same yardstick, we do not think the applicant has suffered any bias vis-a-vis other participants in this process. We do not see any prima-facie gross error or omission in the evaluation of answer sheets and the respondent have given enough, prima facie maintainable, reasons supporting why they have considered the answers

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given by the applicant as wrong. For all these reasons, we do not think, it is a fit case for us to interfere with the evaluation of the answer sheets and declaration of results challenged in this OA.

7. The OA is, therefore, dismissed. No costs.

(Hina P. Shah)
Member (J)

(Dinesh Sharma)
Member (A)

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