

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

LIBRARY

OA 350/00165/2020

Date of Order: 26.11.2020

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member



Shri Bipul Shil,
Son of Shri Binod Shil,
Aged about 39 years,
residing at 1/3B, Sanghati Colony,
Kolkata 700092
And working to the post of Postman
in the office of Regent Park Post Office
under the South Kolkata Division,
Kolkata – 700040.

.....Applicant

Vrs.

1. Union of India,
Service through the Secretary,
Government of India,
Ministry of Communication &
Information Technology,
Department of Posts,
20, Sanchar Bhawan, Ashoka Road,
New Delhi -110001.
2. The Chief Post Master General,
West Bengal Circle,
South Bengal Region,
Yogayog Bhawan,
C.R. Avenue,
Kolkata – 700012.
3. The Post Master General,
Kolkata Region,
Yogayog Bhawan,
Kolkata – 700012.
4. The ADPS Head Quarter (CPLO),
West Bengal Circle,
Yogayog Bhawan,
Kolkata – 700012.
5. The Senior Superintendent of Post Offices,

South Kolkata Division,
Sarat Bose Road,
Kolkata – 700049.

6. The Assistant Superintendent of Post Offices,
South Kolkata 2nd Sub-Division,
Kolkata – 700053.

.....Respondents



For the Applicant(s): Mr. P.C.Das & Ms. T.Maity, Counsel

For the Respondent(s): Mr. P.N.Sharma, Counsel

ORDER

Bidisha Banerjee, Member (J):

The applicant, an OBC candidate, serving as Postman in Regent Park Post Office under South Kolkata Division, had participated in a Limited Departmental Competitive Examination (LDCE) for appointment as Postal Assistant in terms of notification dated 05.08.2019 issued by the Chief Post Master General, West Bengal Circle. The applicant has claimed that although he answered the questions correctly in Paper-I and II and had qualified to appear in Paper-III, he was debarred as such on the ground that his Paper-I and II was not evaluated due to defective filling up of OMR sheets. Being aggrieved he preferred this O.A. to allow him to appear at the DEST (Paper-III) of West Bengal LGO Examination scheduled to be held on 09.02.2020 and sought for the following reliefs:

"8.a) To pass and appropriate order directing upon the respondent authority to include the name of the present applicant in the list of qualified candidates eligible to appear in DEST (Paper III) of West Bengal – LGO Exam – 15.09.2019 issued on 29.01.2020 being Annexure A-9 of this original application and further direct the respondent to incorporate the name of the applicant in the said list and to allow him to appear in DEST (Paper III) of West Bengal – LGO Exam – 15.09.2019 which is going to be held on 09th February, 2020

onwards in terms of the answers given by the applicant in terms of Annexure A-6 and A-7 of this original application wherefrom it will be found that the applicant has scored more than 85 Marks in both Paper I and Paper II and he is eligible to appear in DEST (Paper III) of West Bengal – LGO Exam – 15.09.2019 for the post of Postal Assistant;

b) The respondents be directed to publish the Marks obtained by the applicant in Paper I and Paper II in respect of said examination being Annexure A-6 and A-7 of this original application before this Hon'ble Tribunal and after issuing such Marks, the respondents be directed to include the name of the applicant in list of qualified candidates eligible to appear in DEST (Paper III) of West Bengal – LGO Exam – 15.09.2019 issued on 29.01.2020 being Annexure A-9 of this original application and to allow him to appear in DEST (Paper III) of West Bengal – LGO Exam – 15.09.2019 which is going to be held on 09th February, 2020 onwards so that the successful candidate cannot be deprived in respect of his legitimate claim for appearing in DEST (Paper III) of West Bengal – LGO Exam – 15.09.2019 for appointment to the post of Postal Assistant;

c) The respondents be directed to bring all the records of this selection process in respect of the applicant before this Hon'ble Tribunal so that conscionable justice may be administered;"

2. By an order dated 07.02.2020, this Tribunal had allowed the applicant to sit for Paper-III examination scheduled for 09.02.2020, subject to adjudication of his right to get Paper-I and II evaluated. Pursuant thereto, the applicant was allowed to sit for the examination whereafter, by an order dated 14.08.2020 with the consent of the parties, the result of the applicant was directed to be published within four weeks and a report to that effect to be filed before the Bench on the next date, i.e. before 07.10.2020. In compliance to the directions, it has been intimated from the office of the Chief Post Master General to the Ld. Counsel for the respondents and the Court Officer of this Bench that Paper-I of the applicant could not be evaluated by Machine/Software due to the wrong selection/darkening of bubble of series of question booklet.



However, in regard to Paper-II and III, the same has been evaluated as under:

In obedience to the order passed by Hon'ble CAT (Kolkata Bench) on 14.08.2020 in MA no. 350/333/2020 arising out of OA no. 350/165/2020 filed by Sri Dipul Shil, Postman under South Kolkata Dn, the marks obtained by the candidate in Paper-I, Paper-II and Paper-III of the Limited Departmental Competitive Examination for recruitment to the cadre of Postal assistant/Sorting Assistant from Postman/Mailguard & MTS held on 15.09.2019 against the vacancy year 2015-16 to 2019, are furnished below.

Marks obtained in Paper-I	Marks obtained in Paper-II	Marks obtained in Paper-III
Full marks=100 Marks obtained: Not evaluated The OMR of Paper-I of the petitioner was not evaluated by the machine/software due to wrong selection/darkening of the bubble of 'Series for Question Booklet'	Full marks=50 Marks obtained: 23	Full marks=25 Marks obtained=24.72

This is issued in compliance with the order passed by the Hon'ble CAT (Kolkata Bench) on 14.08.2020 in the above MA received on 03.09.2020 from the Advocate of the petitioner.

This is also issued with the approval of Head of the Circle.

ADPS (P.O.)
O/o the Chief PMG, WB Circle
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3. The respondents have also produced the OMR of Paper-I and, at hearing, Ld. Counsel for the respondents would submit that the said paper could not be evaluated because of some overwriting in the roll number.
4. Ld. Counsel for the applicant would strenuously urge that the darkening of the circles in the roll number area was absolutely in order. However, he admitted overwriting in the roll number. Ld. Counsel for the applicant would submit that the authorities ought not to have rejected the Paper on flimsy ground of overwriting in the answers etc.
5. Ld. Counsel for the respondents was directed to bring the instructions for the candidates appearing in the said selection about their papers likely to be

cancelled in the event of some overwriting in the roll numbers in the OMR sheets.

Ld. Counsel for the respondents has failed to bring on record any such instructions.

6. Ld. Counsels were heard and records were perused.

Our revelation

(i) Annexure-A/6 to the O.A. contains the instructions to the candidates appearing at the selection, to carefully go through before commencing writing on the booklet. The instructions are extracted verbatim herein below for clarity:

Candidate's signature अभ्यर्थी के हस्ताक्षर	Invigilator's signature कक्ष निरीक्षक के हस्ताक्षर
READ THE FOLLOWING INSTRUCTIONS CAREFULLY BEFORE WRITING ANYTHING ON THIS BOOKLET. ALSO GO THROUGH THE INSTRUCTIONS GIVEN ON THE LAST PAGE OF OMR SHEET	इस पुस्तिका पर कुछ भी लिखने से पहले निम्नलिखित निर्देश ध्यानपूर्वक पढ़ें।
1. Paper-I contains 100 objective questions. Before commencing to answer, check that the question Booklet has all the 100 objective questions. Further check that you have been distributed correct booklet and/or any other shortcoming in it if there is any shortcoming, intimate the same to your room invigilator and have it corrected. No complaint in this regard shall be entertained at later stage.	अपना उत्तर लिखना प्रारंभ करने से पहले अपनी प्रश्न पुस्तिका की भत्ती भाँटि जाँच कर लें। देख लें की इसमें 100 वस्तुनिष्ठ प्रश्न हैं। पुनः यह भी परख लें की आपको कक्ष निरीक्षक द्वारा सही प्रश्न पुस्तिका मिली है और इसमें प्रिंटिंग संबंधी अथवा अन्य किसी की कोई कमी नहीं है। यदि किसी प्रकार की कोई कमी हो तो परीक्षक को सूचित करें तथा पुस्तिका बदल लें इस संदर्भ में किसी भी प्रकार की कोई शिकायत पर बाद में कोई विचार नहीं किया जायेगा।
2. This is an objective type test in which each objective question is followed by four options (A) to (D). Your task is to choose the correct/best response and mark your response in the OMR Answer Sheet only as per the instructions given and NOT in the Question Booklet.	यह एक वस्तुनिष्ठ किस्म की परीक्षा है। जिसमें प्रत्येक प्रश्न के निचे क्रमिक (A) से (D) तक चार प्रस्तावित उत्तर दिए हैं। आपके विचार में जो भी उत्तर सही/सर्वश्रेष्ठ है उसको ओ. एम. आर. उत्तर पत्र में दिए निर्देश के अनुसार चिह्नित कीजिये। अपने उत्तर प्रश्न पुस्तिका में न लगाए।
3. Use Blue/Black Ball Point Pen for filling boxes on the OMR Answer Sheet. The ovals on the OMR Answer Sheet are to be completely filled by Blue/Black Ball Point Pen.	ओ.एम. आर. उत्तर पत्रिका पर बॉक्स को भरने के लिए नीले/काले बॉल पॉइन्ट पेन से लिखें। ओ.एम.आर. उत्तर पत्रिका पर ओवल को पूर्ण रूप से नीले/काले बॉल पॉइन्ट पेन से भरें।
4. DO NOT scribble, do no rough work or do not make any stray marks on the Answer Sheet. DO NOT wrinkle or fold or staple the OMR Sheet.	उत्तर पत्र पर न तो रफ कार्य करें न ही और किसी प्रकार का निशान आदि लगाए या इसे मोड़ें।
5. Use of Calculators, Slide rules, Mobiles, calculator watches or any such devices and/or any other study/reference material is NOT allowed inside the examination hall. Do not bring these articles to the examination hall.	कैलकुलेटर, स्लाइडरूल, मोबाइल, कैलकुलेटर घड़ियाँ या इस प्रकार की कोई भी युक्ति एवं किसी भी अध्ययन/संदर्भ सामग्री आदि का प्रयोग परीक्षा कक्ष में वर्जित है।
6. Rough Work is to be done in the blank space provided in the Question Booklet, not on the OMR Answer Sheet. No other paper will be allowed/provided for rough work.	रफ कार्य पुस्तिका में किसी भी खाली स्थान में किया जाना चाहिए। ओ.एम.आर. उत्तर पत्रिका पर कोई कार्य न करें। किसी अन्य कागज पर इसे करने की अनुमति नहीं है।
7. The Question Booklet will be in four series (A, B, C and D). You must write correct Question Booklet Series on your OMR sheet. The candidate will be solely responsible to quote the correct Question Booklet Series on the OMR Sheet without which OMR Sheet will not be evaluated under any circumstance.	प्रश्न पुस्तिका (A, B, C, and D) चार श्रृंखलाओं में होगी। आपको ओ. एम. आर. उत्तर पत्रिका पर सही प्रश्न पुस्तिका श्रृंखला लिखना है। ओ. एम. आर. में सही प्रश्न पुस्तिका श्रृंखला भरने का अभ्यर्थी स्वयं जिम्मेदार होगा, इसके बिना ओ.एम. आर. का किसी भी परिस्थिति में मूल्यांकन नहीं किया जायेगा।
8. Return the original OMR Answer Sheet to the invigilator on completion of the test. Do not take this Question Booklet or any part thereof or OMR Answer Sheet outside the examination hall during the course of the examination. Doing so is a punishable offence.	परीक्षा की समाप्ति के पश्चात अपनी उत्तर-पुस्तिका की मूल प्रति परीक्षक को वापस कर दें। परीक्षा के दौरान, प्रश्न पुस्तिका या इसके किसी भाग अथवा ओ. एम. आर. उत्तर पत्रिका को परीक्षा कक्ष के बाहर ले जाना वर्जित है ऐसा करना दण्डनीय अपराध है।
9. Take care that you mark only one answer for each question. If more than one answer is given by you for any question, the same will not be evaluated. Cutting/Overwriting the answers is not allowed. Further, question paper is in Hindi/English/local language (s). In case of any variation in translated Hindi/local version, English version will be taken as final for evaluation purposes.	हर एक प्रश्न के लिए केवल एक ही उत्तर चिह्नित करें। एक से अधिक उत्तर देने पर प्रश्न का कोई अंक नहीं दिया जायेगा। उत्तर में कोई भी कटिंग या ओवरराइटिंग मान्य नहीं होगी। प्रश्न पत्र हिंदी/अंग्रेजी/स्थानीय भाषा में है। अनुवादित हिंदी/स्थानीय संस्करण में किसी भी भिन्नता होने पर मूल्यांकन के लिए अंग्रेजी संस्करण को अंतिम माना जायेगा।
10. HOW TO ANSWER THE QUESTION :- Please follow instructions given on the OMR Answer Sheet	प्रश्नों का उत्तर कैसे दें :- कृपया ओ. एम. आर. उत्तर पत्रिका पर दिए गए अनूदेशों का पालन करें।

(ii) It is explicit from the above that there is no express instruction given to the candidate that overwriting of roll number and not darkening the circles would entail cancellation of candidature/respective paper.

(iii) Even the instruction at Srl. No. 9 that "you mark only one answer for each question" did not contain any clause that darkening of one circle after whitening the previously darkened circle or overwriting in the answer, would entail cancellation of the candidature or paper.

(iv) The OMR sheet as handed over by the Ld. Counsel for the respondents depicts that Sl. No. 38 and 69 clearly indicate the option chosen by the applicant leaving no room for any doubt. There is some overwriting of the digits in the square provided for entering the roll number but darkening of the circles are absolutely in order.

7. Since Paper-I has not been evaluated for wrong reasons as explained above, we direct the authorities to consider making an honest endeavour to get Paper-I evaluated and based on the evaluation to grant appropriate benefit to the applicant as per rules, if nothing else stands in the way. Let the entire exercise be completed within a period of three months from the date of receipt of a copy of this order.

8. With the above observation and directions, the O.A. stands disposed of. No costs.

(Dr. Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

RK