

THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD.

T.A.No. 650/86

C.A. No.155/ 85 (arising out of  
O.S.No.163 of 1984).

Union of India ... Appellant - Defendant

Vs.

H.N. Srivastava ... Respondent - Plaintiff

Hon. Mr. A.B. Gorthi, A.M.

Hon. Mr. S. N. Prasad, J.M.

(By Hon. Mr. S. N. Prasad, J.M.)

The plaintiff Shri H.N. Srivastava filed the Civil Suit No.163 of 1984 in the Court of Munsif, Jhansi, praying for a decree for declaration to the effect that the plaintiff had passed App-II IREM examination held in November, 1982 at Jhansi. The defendant, Union of India through the General Manager, Central Railway, has preferred this appeal against the impugned judgment and decree in the Court of Distt. Judge, Jhansi. The said appeal has been transferred to the Tribunal under section 29 of the Administrative Tribunals Act 1985. No one has appeared for the plaintiff. Shri G.P. Agarwal, learned Counsel for the defendant (appellant) has been heard in respect of the impugned judgment and decree which has been passed by the trial court.

Inter-alia, in the plaint, the plaintiff has stated that he has been working as a Clerk Grade I, in the Sr. Divisional Accounts Officer's Office, Jhansi. As mentioned in the plaint, inter-alia, the averment is that the plaintiff has been working as a Clerk Grade-I in the Sr. Divisional Accounts Office, Central Railway, Jhansi and ever since his appointment in the railway, he has been discharging his duties satisfactorily. The plaintiff



had appeared at the IREM App-III examination which was held at Jhansi in November, 1982 and the result of the said examination was declared and the plaintiff was shown to have secured marks as detailed in para 4 of the plaint. According to the estimation of the plaintiff, he had done well and he should have secured much more marks than the marks given to him as such he represented the matter to the <sup>2</sup>financial Commissioner, Ministry of Railways, New Delhi and by the letter dated 14-11-83, he was replied that no error in evaluating the plaintiff's Answer Books has been committed and the tabulation as indicated specifying therein the respective marks secured by the plaintiff is supposed to be correct one. Thereafter, he filed the above Suit for declaration to the effect that plaintiff has passed App.III IREM examination held in Nov., 1982 at Jhansi; and further prayed in the alternative that decree for permanent injunction directing the defendants to get the answer books of the plaintiff in paper IV of said examination evaluated again by an individual agency or by a person thought to be fit by the Court.

In the U.S. filed by the defendant, inter alia, *it has been* contended that answer books were evaluated properly and marks were awarded to the plaintiff correctly and the allegation to the effect that the answer books were not evaluated properly is quite incorrect. The plaintiff has got no cause of action and in view of the above circumstances, the Suit is liable to be dismissed.

The Trial Court framed seven issues, keeping in view the pleadings of the parties and after considering the evidence on record decreed the suit of the plaintiff <sup>2</sup>



as prayed in the plaint, by impugned judgment and decree dated 18-7-1985.

Feeling aggrieved against the impugned judgment and decree of the Trial Court, this appeal has been filed by the deponent <sup>of 1st respondent</sup> (U.O.I.) -

We have heard the learned Counsel for the appellant. He has argued while drawing our attention to the impugned judgment and decree of the trial Court, that a scrutiny of the answer books by the Court is beyond the scope of enquiry and jurisdiction of the Court/Tribunal. Violation of any rule or breach of <sup>statutory</sup> ~~any satisfactory~~ provision of answer books is to be <sup>involved in the matter of examination or evaluation</sup> adjudged ~~by~~ the Court/Tribunal and as such the impugned judgment and the decree of the trial Court can be set aside on the ground alone as the trial Court has exceeded its scope of inquiry and jurisdiction and has placed reliance on the following rulings.

(i) ATR 1989'1 (CAT/Jodhpur. "K. Vinita Srivastava Vs. U.O.I & Others at Page 103 wherein it has been enunciated :-

"Even though it is open to the Court to ascertain as to whether any error in the totalling of marks, tabulation of marks or transposition thereof has taken place and/or as to whether there is any other illegality or irregularity which may vitiate the result, even so the Court is not to embark on the task of revaluating answer books."



(ii) Ramesh Chandra Tiwari Vs. U.O.I. & Others.


Registration No. 672 of 1986(T)/CAT/Alld decided on 30-10-86. ( Photostat copy whereof is kept on record ),

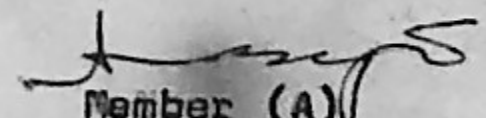
We have perused the above rulings.

We have perused the impugned judgment and decree passed by the trial court and we find that the finding of the trial Court in regard to issue No.1 "As to whether the answer book of the plaintiff, App-III <sup>in regard to question paper No. 4 of</sup> ~~in the~~ examination of IREM was not evaluated correctly," is based on the mere statement of the plaintiff which is to the effect that he had done all the questions of the 4th question paper correctly, but according to him, very few marks were awarded to him. Thus there is no corroborative evidence to support the veracity of the above statement of the plaintiff.

Having considered the entire evidence on record and keeping in view the principles of law <sup>enunciated in the above rulings</sup> as ~~cited above~~ we find that the trial Court has erred in decreeing the above Suit of the plaintiff.

Consequently, the above appeal No.155/85 is hereby allowed and the impugned judgement and decree of the trial court are hereby set aside, and the above suit No.163 of 1984 of the plaintiff is hereby dismissed. In the circumstances of the case the parties are directed to bear their own costs.

  
Member (J)

  
Member (A)

Dated: 21st May, 1992, Allahabad.