

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 424 OF 1993.

~~Ex. No.~~

DATE OF DECISION 30-11-1993.

Miss. Sudha Verma, Petitioner

Mr.S.Tripathy & Mr.P.B.Sharma, Advocate for the Petitioner(s)

Versus

The Union of India & Ors. Respondents

Mr. Akil Kureshi, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C.Bhatt, Judicial Member.

The Hon'ble Mr. M.R. Kolhatkar, Admn. Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? X
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✓

Miss. Sudha Verma
K-6, Sector - 19
Gandhinagar-382 019.

..... Applicant.

(Advocate: Mr. S.Tripathy &
Mr. P.B.Sharma)

Versus.

1. The Union of India,
Notice to be served through
the Secretary to the Govt.
of India, Department of
Personnel & Training,
Ministry of Personnel,
Public Grievances & Pension,
New Delhi 110 001.

2. Union Public Service Commission,
Notice to be served through the
Secretary, Union Public Service
Commission, Dholpur House,
Shahjahan Road,
New Delhi - 110 001.

..... Respondents.

(Advocate: Mr. Akil Kureshi)

J U D G M E N T

O.A.No. 424 OF 1993

Date: 30-11-1993.

Per: Hon'ble Mr. M.R.Kolhatkar, Admn. Member.

This is an application under section 19 of the Administrative Tribunals Act, 1985. The applicant appeared for Civil Service (Preliminary), Civil Service (Main) examination held in 1992 with Roll No. 015587. The grievance of the applicant is that she was called to appear at the oral interview and thereafter she has been finally selected but only with a lower position in the merit list and that this lower position is on account of very low marks in General Studies Paper-II, where

she is shown to have secured 39 marks out of 300 marks. According to applicant, in the earlier examination (1991) she had secured 150 marks in the very same paper. The General Studies Paper-II examines the proficiency of students in subjects like Economics, Political Science, History and Geography and the applicant is a Gold Medalist having secured first position in M.A (Economics) Examination from Gujarat University with First Class in the year 1991. Prima facie, therefore, this score of 39 marks out of 300 marks is highly implausible. The applicant has, therefore, approached this Tribunal praying for the following reliefs.

"(A) direct the Respondent No.2 to produce the answer books of the applicant and in particular her answer book of General Studies Paper-II and allow the applicant to see and ascertain if that answer book is that of the applicant. The applicant should further be permitted to ascertain if all the Supplementaries/Additional answer books as per the details given on the Main paper/book are bunched in-tact. The applicant should be given opportunity to ascertain if all answers in respect of all the questions are assessed and and same is subjected to moderation;

(B) direct the Respondent No.2 to produce the actual answer book of the applicant, in the event the answer book in General Studies Paper-II supposed to be that of the applicant on which the 39 marks have been awarded is found as not belonging to the applicant;

(C) direct the Respondent No.2 to ensure assessment of all answers of all questions attempted by the applicant, in the event any answer is not assessed and the same should be subjected to further moderation by the Head Examiner.

(D) direct the Respondent No.2 to determine the merit of the applicant after proper assessment of the answers of the applicant and publish the revised Merit-list.

(E) direct the Respondent No.1 to appoint the applicant in appropriate service taking into consideration the revised Merit-list after proper assessment of the answer book of the applicant in General Studies Paper-II.

(F) award the cost of this application to the applicant;

(G) grant any other and further reliefs as would be deemed just and proper in the interest of justice; "

2. Notice was issued on admission to Respondent No. 1 & 2, Respondent No.1, Union of India has not filed any counter but respondent No.2, UPSC, which is mainly concerned has filed a detailed written statement, in which it is contended that it has been verified that (i) the answer book and supplementary books used by the applicant in General Studies Paper-II have been assessed, (ii) there has been no error in coding and decoding and that (iii) the answer books of the applicant are complete and belong to her and there is no mistake of any other kind in the marks. As regards applicant's

request for inspection of her answer book, it is stated that the rules of examination do not provide for verification of the answer book by the candidates and ^{UPSC} have also relied on the judgment of the Hon'ble Supreme Court in the case of Maharashtra State Board of Secondary and Higher Secondary Education and Anrs. V/s. Paritosh Bhupesh Kumarsheth (AIR 1984 SC page 1543) where-in the Hon'ble Supreme Court has held as follows:

"The principle of natural justice cannot be extended beyond reasonable and rational limits and cannot be carried to such abused lengths as to make it necessary that candidates who have taken a public examination should be allowed to participate in the process of evaluation of their performance or to verify correctness of the evaluation made by the examiners by themselves conducting an inspection of the answerbooks and determining whether there has been a proper and fair valuation of the answer books by the examiners. Further it is in the public interest that the results of public examination when published should have some finality attached to them. If inspection/verification in the presence of candidates and revaluation are to be allowed as of right, it may lead to gross and indefinite uncertainty particular in regard to relative ranking, etc. of the candidates besides leading to utter confusion on account of the enormity of the labour and time involved in the process."

It has also been pointed out that the Principal Bench of C.A.T., at New Delhi in O.A. 2623/91, in connection the same examination, but for an earlier year (Civil Service (Main) Examination 1990) in the case of similar nature

had relied on this judgment of the Hon'ble Supreme Court and held that in the absence of any prima facie error or irregularity there was no justification for any direction to produce answer books.

3. The applicant in his rejoinder to the written reply has mainly contended that the Supreme Court judgment of 1984 would not be relevant in the year 1993 because when that judgment was delivered, the facts like swapping of marks, deliberate mistake in decoding of roll numbers resulting in exchange of marks etc. were practically unknown. Her main prayer is to satisfy herself that the paper where total marks are 39 should be her paper.

4. We heard the learned advocates of the parties on 2.11.1993 when we indicated that ⁱⁿ the face of authorities cited, we were not inclined to requisition production of answer books but considering the anxiety of the applicant and to put the matter beyond any pale of doubt the Tribunal would like to suggest that the UPSC can remove apprehension of the candidate effectively by assuring that a further re-checking is done in respect of the various points at the highest administrative level in the UPSC viz; by Secretary UPSC. Our suggestion was acceptable to the advocate for the applicant and the advocate for the respondents agreed to consult the UPSC.

5. On 25-11-1993, when the case was called, the advocate for the respondent No.2 produced before us the letter No. F.7/32/93-E.III dated 23rd November,1993 from UPSC in which it is stated as below:

"I am directed to refer to your letter dated 3.11.1993 on the above mentioned subject and to say that the Secretary, Union Public Service Commission has himself verified the Answer Books of the candidate, Miss Sudha Verma, (Roll No. 15587) in General Studies Paper-II on the following points, as suggested by the Hon'ble Bench of Central Administrative Tribunal, Ahmedabad.

- i) The answer books including the supplementary answer books attached to it belongs to the candidate.
- ii) All questions/Parts of the questions have been evaluated by examiner; and
- iii) total of the marks awarded to the questions is correct.

You are now requested to place the above mentioned facts before the Hon'ble Tribunal

6. The letter was shown to the learned advocate of the applicant. The advocate of the applicant argued that he would suggest joint checking of the answer papers by Secretary, Ministry of Home Affairs, who is not directly involved in the process of examination along with Secretary UPSC. Alternatively, he would like the checking to be done by the Tribunal. The advocate for the respondent No.2 pointed out that the advocate for the applicant has shifted his original stand that it was on

specific instruction of the Tribunal on the basis of which he had gone back and persuaded his client to implement Tribunal's suggestion and that the suggestions now made by the advocate of the applicant amounted to re-opening of the issue merely because the outcome was not favourable to applicant.

7. We have considered the matter carefully. The suggestion ~~was~~ incorporated in the letter of the UPSC was made by us with the consent of both the parties and in particular the consent of the advocate for the applicant. The suggestion having been implemented and reported, it is not now open to the advocate for the applicant to resile from the earlier consent. Even otherwise we do not consider that this is a fit case for requisition the answer book. We would again like to refer to Delhi case. In the said case of similar nature the applicant had obtained comparatively high marks in Psychology Paper-II in the examinations held in 1986 and 1988, but his performance dropped sharply in the same paper in the examination held in 1990. The contention of the applicant in the said case was that since he had performed well in the preceding examinations, his performance in the last examination could not be worse than what he achieved in the preceding examinations and that in his view low marks could be the result of some

error on the part of the U.P.S.C. This contention was not accepted by the Hon'ble Tribunal who relying on the judgment of the Hon'ble Supreme Court of India rejected the application on the ground that there was nothing on record to show even prima facie that there had been an error or irregularity in the compilation of the result in respect of the applicant and they, therefore, did not feel justified in directing the respondents to produce the answerbooks for their inquisition. The present case is identical to the case mentioned above. We therefore, dispose of this application by passing the following orders:

ORDER

The application is dismissed at the admission stage with no order as to costs.

M.R. Kolhatkar

(M.R. Kolhatkar)
Member (A)

R.C. Bhatt

(R.C. Bhatt)
Member (J)

vtc.

2
+ 1 OK

③ ✓ copies may be
Prepared, while

5 for Repurters

+ 16 for other Benches

② ✓ copies may be
prepared, hereafter,

as this Bench is
observing Economy,
as for the instructions
of Adm see.

CR 1-12-93

DR/G, Prailer
01-12-93

CENTRAL ADMINISTRATIVE TRIBUNAL
Ahmedabad Bench

Application No. 04/424/93 of 19

Transfer Application No. _____ Old W.Pett No.

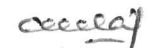
CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided)

Dated : 22/12/93

Countersigned :


Section Officer/Court officer


Signature of the Dealing Assistant

CAUSE TITLE.....04/424/93.....OF 198 ☐.

Miss Sudha Velma,

VERSUS

U. O. 1. 2 000

PART A B & C

[illegible]