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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

Original Application No. 539 of 1992

Date of Decision: 7.7.1993

Umakanta Mahasur

Applicant(s)

Versus

Union of India & Others Respondent(s)

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( FOR INSTRUCTIONS )

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ?

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MEMBER (ADMINISTRATIVE)

07 JUL 93

  
7.7.93  
VICE-CHAIRMAN

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Original Application No. 539 of 1992

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Umakanta Mahasur

Applicant(s)

Versus

Union of India & Others Respondents

For the applicant:

M/s. M.M. Basu  
D. Dey  
D. Chaudhury  
B. Mohanty  
J. K. Mohapatra,  
Advocates

For the respondents:

Mr. Ashok Mishra  
Standing Counsel  
(Central Government)

...

C O R A M:

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN

AND

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMIN)

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JUDGMENT

MR.K.P.ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act,1985, the petitioner prays to quash Annexure-4 and to direct Opposite Party No.1 to consider the representation of the petitioner contained in Annexure-2 on merit and take such steps as required to revalue/recheck Paper No.2 in the light of the prescriptions of Para 209; and after recheck<sup>ng</sup> give a declaration that the petitioner has passed the examination.

2. Shortly stated the case of the petitioner is that he had appeared in Subordinate Accounts Service Examination (Part-II) in November,1991. The petitioner became successful in all the papers except <sup>the</sup> paper, relating to Public Accounts Theory, in which he has scored only 35 marks. Therefore, the petitioner was declared to be unsuccessful. Hence this application has been filed with the aforesaid prayer.

3. In their counter the opposite parties maintain that the answer paper in question has been correctly valued and the performance of the petitioner has been correctly and rightly assessed, and after the representation of the petitioner was received, the answer paper has been reviewed and there being no scope to effect the change in the marks, consequently the result, as published would stand, and the case being devoid of merit is liable to be dismissed.

4. We have heard Mr.M.M.Basu, learned counsel for the petitioner and Mr.Ashok Mishra, learned Standing Counsel. Mr.Basu emphatically submitted that in view of the provisions contained in Para-209 of the standing order, the relevant answer paper should have been revalued/rechecked and the

petitioner is sure, if such a step could have been taken, the petitioner would have scored higher marks than 35, because according to the petitioner, his performance was of higher standard. In this connection our attention was drawn to Para-4.7 of the petition, quoting the provisions of Para-209 which runs as follows :

" Representations from failed candidates for the grant of grace marks, revaluation/rechecking of the answer books should not be forwarded to the Comptroller & Auditor General unless the Accountant General etc. is fully convinced that there are sufficiently strong grounds for entertaining the Representation."

5. The crux of the provisions quoted above is to the effect that a representation for revaluation/rechecking of the answer paper is maintainable and could be forwarded, if, there are sufficiently good grounds for entertaining the representation. Mr. Basu relying on the matters stated in Annexures-R/2 and 4, contended that the relevant paper has not been rechecked and/or revalued. Vide Annexure-4, dated 2.9.1992, it is stated by the Accounts Officer that representation of the petitioner has been considered by the Headquarters and it has been intimated that there is no scope for revision of the results, already intimated. On the basis of this fact stated in Annexure-4, Mr. Basu contended that the answer paper has not been revalued or rechecked, and therefore, the competent authority has come to an illegal conclusion that there is no scope for revision. This contention of Mr. Basu stands negat<sup>ed</sup> by the fax message contained in Annexure-R/2, which was placed before us by Mr. Ashok Mishra, learned Standing Counsel. Therein it is stated tha

stated as follows :

" As the applicant failed to secure 40 marks in the paper P.A.A. theory, he was declared unsuccessful in the S.O.G.E. held in November, 1991. Relevant answer script has duly been reviewed, but there were no scope for revision to the results."

To this, Mr. Basu submitted that this is a statement contrary to the statement made in Annexure-R/1, because in R-1, it is repeated that there is no scope for revision of the results already intimated. We are unable to agree with Mr. Basu that there is any contradictory statement between two documents referred to above. We are also not in agreement with the contention of Mr. Basu that relevant answer paper was not reviewed. In our opinion, the word, 'Review' includes recheck, and once there has been a review or recheck by the competent authority, and same conclusion has been arrived at, we find no reason for any interference. In the circumstances stated above, we find no merit in this petition, which stands dismissed, leaving the parties to bear their own cost.

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MEMBER (ADMINISTRATIVE)

07 JUL 93

Central Administrative Tribunal  
Cuttack Bench Cuttack  
dated the 7.7.1993/ B.K. Sahoo

VICE-CHAIRMAN

*Keerti Singh*  
7.7.93.

