

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

Present : Hon'ble Mr. D. Purkayastha, Judicial Member
Hon'ble Mr. M.P. Singh, Administrative Member.

O.A. No.1086 of 1996

Biswarup Mukhopadhyay, S/o Sri Umapati. Mukhopadhyay, working as Postal Asstt. Chittaranjan Avenue Post Offices, Cal- 700 073, a resident of 32B, Mahendra Goswami Lane, Calcutta-700 006

O.A. No.1087 of 1996

Pijush Kanti Dutta, S/o Sri Ramesh Chandra Dutta, working as Assistant Accountant, Calcutta G.P.O., Calcutta, a resident of 28, Lal Bahadur Sarani, Parnasree Palli, Calcutta-700 060

O.A. No.1088 of 1996

Balchand, S/o Sri Lalsa Prasad, working as Postal Assistant, Fort William Post Office, Calcutta-21, a resident of 24/9 Coal Berth Lane, P.O. S.E. Rly., Cal;

... Applicants

VS

1. Union of India, service through the Secretary, Ministry of Communication, Dept. of Posts, Dak Bhavan, New Delhi

2. The Director General of Posts, Dept. Posts, Dak Bhavan, Sansad Marg, New Delhi-110 001

3. The Assistant Director General of Posts (D.E.), Dept of Posts, Dak Bhavan Sansad Mark, New Delhi-110 001

4. The Chief Postmaster General, West Bengal Circle, Yogayog Bhawan, Calcutta

5. The Postmaster General, Calcutta Region, Yogayog Bhawan, Calcutta-12

... Respondents

For the Applicants : Mr. N.C. Chakraborty, counsel

For the Respondents: Mr.B. Mukherjee, counsel

Heard on 08.01.2001

: : Date of order: 08.01.2001

O R D E R

D. Purkayastha, JM

All these cases are taken up together for hearing since the facts and laws involved in these cases are similar in nature. The grievances of the aforesaid applicants, in short, are that they appeared as Junior Accounts Officer Part II

examination (Postal Wing) held in November 1992 to March, 1993. Their contention is that the result of the examination was delayed and the marks obtained by them were communicated to the Sr. Superintendent of Post Offices, Central Calcutta Division on 31.3.94 vide respective annexures to the application. Since the applicants have some doubt about the result of the examination relating to the paper VI, they made representations to the authorities for retotalling and reassessment of the answerscripts of the paper VI. According to the applicants, their representations were not given due weightage and they were informed by the Senior Superintendent of Post Offices, Central Calcutta Division that the marks obtained by the applicants in paper VI have been retotalled and verified and found correct and that each question attempted by them has been duly assessed by the examiner. That reply did not satisfy the applicants and they approached this Tribunal for necessary direction upon the respondents for reassessing their answerscripts in paper VI of JAO Part-II examination held in November, '92/March '93 and if they are successful, the respondents should give them consequential benefits of promotion and seniority etc. In that case the Tribunal passed the following order:

"...However, in view of the urgency, we dispose of the petition at the admission stage itself with the following order, that the respondents No.2 i.e., the Director General of Posts within 3 months from the date of communication of this order shall consider the representation of the petitioner fully, specially, in relation to his request for reassessment of the marks obtained. If on the basis of such reassessment the petitioner is successful, the respondents will give him further consequential benefits under the rules. In case the petitioner does not get the reliefs as prayed for, respondent No.2 shall give a speaking reply to the petitioner. If the petitioner is still aggrieved with this reply, he has the liberty to file an original application before this Tribunal."

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As per direction given by the Tribunal in the order dated 5.6.95 the respondents passed a speaking order and communicated the same to the applicants. Now the applicants contended that the respondents did not reassess the answerscript as per the

direction of the Tribunal. Therefore, the entire actions of the respondents are arbitrary and liable to be quashed and accordingly the annexures intimating the decision of the authorities are also liable to be quashed. The applicant of the third case in addition to the aforesaid grievance also claimed that he is entitled to get the benefit of relaxation of pass marks since he belongs to scheduled caste community. So, the minimum marks prescribed for the general caste candidates in the examination cannot be applicable to him and if relaxation is given to him, he ought to have been considered by the respondents. So, revaluation was not done in accordance with the rules.

2. The respondents filed separate replies to all OAs. They denied the claims of the applicants stating inter alia that revaluation of answer books is not permissible under any circumstances as laid down vide Rule 15 of Appendix 37 of P&T Manual Vol.IV. The fee of Rs.100/- prescribed for retotalling/reverification of answer books vide Directorate letter No.18-2/94/DE dated 23.5.94 and 7.9.94 makes it clear that the candidates cannot apply for revaluation of their answer books under any circumstances. However, they consider the representations of the applicants and they retotaled and verified the marks obtained by the applicants and found correct. It is also stated by them that each question attempted by the applicants has been duly assessed by the examiner. The respondents also communicated the decision to that effect that the revaluation of the answerscript is not permissible in any case and under any circumstances as per Rule 15 of the P&T Manual Vol.IV.

3. Mr.Chakraborty, learned advocate appearing on behalf of the applicants contended that no reassessment had been done by the respondent No.2, Director General of Post Offices as per the direction of this Tribunal. Therefore, the applicants were

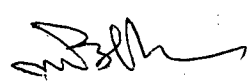
denied since the answerscripts were destroyed. ^{But in this case} ~~The~~ respondents took the plea that reassessment of the answerscript is not permissible under the Rule 15 of the P&T Manual Vol.IV, but they retotalled and reverified the answerscripts and found that the answerscripts assessed by the examiner are correct. On a perusal of Rules 14 and 15 of Appendix 37 of the P&T Manual Vol.IV we find that revaluation of the answerscripts is not permissible in any case under any circumstances. The applicant did not challenge the Rule 15 of the Appendix 37 of the P&T Manual Vol.IV as being arbitrary or illegal. The applicants want to enforce their right under the said rule. Since the said Rule does not confer any right of revaluation of answerscripts, therefore, we are of the view that the applicants have no stand to claim reassessment of the answerscript on the basis of the order of the Tribunal. We have gone through the order dated 5.6.95 passed by the Tribunal in OA 96/95. In that case the respondents were asked to file reply. But the learned advocate of the respondents at the time of passing the order on 5.6.95 submitted that she had no instructions in the matter. But considering the urgency the Tribunal passed the order to reassess the marks obtained by the applicants. We are of the view that the Court cannot confer the right upon any citizen by order unless such right is conferred by the rules prescribed for the same. The applicants can enforce the right guaranteed under the rules and not by otherwise. In view of the aforesaid circumstances we are of the view that the applicants cannot claim revaluation of the answerscripts on the basis of the direction given by the Tribunal since Rule 15 does not permit the authorities for revaluation of the answerscripts. In view of the aforesaid circumstances we are unable to grant any relief to the applicants on that score.

6. Regarding relaxation of the marks in respect of the third applicant, Mr. Mukherjee, learned advocate for the

respondents submits that the applicant did not appear as a scheduled caste candidate since there was no post reserved for scheduled caste candidate and he appeared against the general candidate quota. Since he did not appear in the examination without taking recourse to the scheduled caste candidate; therefore, he is not entitled to get any benefit of relaxation and he has to compete with the general candidates. We accept the contention made by Mr. Mukherjee, on behalf of the respondents.

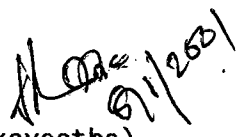
7. Mr. Chakraborty, learned advocate for the applicants submits that rule was not known to the applicants and that is why they did not challenge it. We are of the view that the Rule was published in 1985; therefore, it is unbelievable that the applicants did not have knowledge of the rule when they filed the applications.

8. In view of our findings made above we do not find any merit in the applications and hence all the applications are dismissed without awarding any cost.



(M. P. Singh)

MEMBER (A)



(D. Purkayastha)

MEMBER (J)