

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 610 of 2010

Tuesday, this the 25th day of October, 2011

CORAM:

**HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Rajesh V,
S/o. Balakrishnan Nair K,
B.P.M, Arimpra Post,
Kondotty Via, Malappuram District,
Residing at Kariyedath,
Pallikkal Post, Chelambra Via,
Malappuram District.

... Applicant.

(By Advocate Mr. V. Sajith Kumar)

versus

1. Union of India represented by
The Secretary to the Government,
Department of Posts,
Government of India, New Delhi
2. The Chief Postmaster General,
Kerala Circle, Trivandrum.
3. The Postmaster General,
Northern Region, Calicut.
4. The Superintendent of Post Office,
Manjeri Division, Manjeri.
5. Sri Anil Kumar R,
Postman,
C/o. Superintendent of Post Offices,
Manjeri Postal Division,
Manjeri – 676 121.
6. Shri Rajesh P,
Postman,
C/o. Superintendent of Post Offices,
Manjeri Postal Division,
Manjeri – 676 121

... Respondents.

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(By Advocate Mr. Varghese P. Thomas, ACGSC for R1-4 and
Mr. T.C. Govindaswamy for R5-6)

This application having been heard on 12.10.2011, the Tribunal on
25/10/11 delivered the following:

ORDER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

The applicant in this O.A was an aspirant to the post of Postman for selection against the vacancies notified for the year 2009. He is aggrieved by the non-valuation or irregular valuation of paper A1 in the Postman examination and consequential denial of selection and appointment. He was a candidate for the Postman examination for the vacancies of the year 2006, 2007, 2008 and 2009 conducted at Manjeri on 30.09.2009, 18.10.2009, 08.11.2009 and 20.12.2009 respectively. He was awarded 47, 50, 46 and 35 marks for paper A1 (making entries in the Postman book). The applicant had left the columns 3 and 6 in the Postman book in all the examinations uniformly blank, which is to be filled by the Postmaster or Clerk. But he was given only 35 marks for paper A1 in the examination held against the vacancies for the year 2009 leaving the said columns blank as per the statutory rules in the P&T Manual, Volume VI and the circular No. Rectt/12-1/Rlgs/VI dated 18.09.2002 at Annexures A-5 and A-6 respectively. The 'x' mark shown against the columns 3 and 6 indicates that the examiner is finding fault with the applicant in not filling columns 3 and 6.

2. The applicant submitted that the inaction on the part of the respondents to conduct the valuation of answer scripts in accordance with statutory rules is



highly unjust and illegal. The applicant has got a right to get his paper valued in accordance with law. He is challenging the illegality committed against him by the examiner. Finding fault with a candidate who had followed the mandate of the statutory rules is impermissible in law. If the applicant is given marks as per the statutory rules, he would be eligible to get selected in merit quota. The applicant relied on the judgement of this Tribunal in O.A.No. 736/2009 in support of his argument.

3. The respondents in their reply statement submitted that the applicant could not be selected as Postman as he could not find a place in the merit quota as per the marks obtained by him. There were only 2 vacancies in the merit quota. 2 candidates who had secured more marks than the applicant were selected. All the answer scripts of paper A1 from Manjeri Postal Division are seen valued similarly. No deviation or irregular valuation is noticed in valuation of the answer script of the applicant. There are no grievances from other candidates about the valuation of paper A1. The contention of the applicant that the examiner is finding fault with him in not making the entries in columns 3 and 6 is not correct. The respondents admitted that the valuation of answer scripts is to be done as per statutory rules. The judgement of this Tribunal in O.A. No. 736/2009 is not applicable to the present case. In the aforesaid judgement, the direction was to revalue the answer scripts without giving any weightage of marks in entering the articles in groups in Postman book. The original answer scripts of the selected candidates were verified by the applicant in addition to his own. The papers of all the candidates who had appeared for the examination were valued properly and in the same pattern.

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4. In the rejoinder filed by the applicant, it was submitted that it is not the question of perception of the examiner but violation of guidelines and answer key by the examiner.
5. In the additional reply statement, the respondents submitted that the applicant's allegation pertains to not awarding justified marks by the examiner. As per the letter No. A-34018/10/2010-DE dated 02.08.2010, when the complaint pertains to not awarding justified marks by the examiner, there is no need to consider revaluation of answer scripts.
6. In the affidavit filed by the 2nd respondent, it was submitted that a perusal of the answer scripts of the candidates who appeared for the test indicate that the examiner had uniformly applied the yardstick putting 'x' mark for those who left the columns blank and '✓' mark for those who had written 'sd/-' and awarded marks accordingly. If one candidate is given the benefit viz a viz all others who were similarly assessed in 2009, it would be unfair to all the others, especially when a few candidates did qualify for the posts, despite the negative marking in the question relating to the Postman book based on their over all performance.
7. In the additional rejoinder, the applicant submitted that the erroneous yardstick was adopted only against 107 candidates from Manjeri Postal Division only. Only 2 vacancies were available in merit quota. Therefore, correcting the mistake committed by one of the official will not cause any prejudice.

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8. In the additional reply statement, the respondents submitted that the examiner had adopted a uniform yardstick in his valuation for all the 107 candidates of Manjeri Postal Division in 2009 wherein he expected every column to be filled in correctly and none left blank. The applicant has not been adversely affected viz-a-viz his colleagues in competing the 2009 examination.

9. We have heard Mr. V. Sajith Kumar, learned counsel for the applicant, Mr. Varghese P. Thomas, ACGSC, learned counsel for respondents No. 1 to 4 and Mr. T.C. Govindaswamy, learned counsel for the respondents No. 5 and 6 and perused the records.

10. The grievance of the applicant is that he was not given justified marks in Paper A1 as he had left columns 3 and 6 blank which is in accordance with the statutory rules and guidelines. As per letter dated 02.08.2010, the answer scripts need not be revalued on the ground that justified marks are not awarded by the examiner.

11. The applicant had left columns 3 and 6 of Postman book blank as per guidelines at Annexure A-6 dated 18.09.2002 wherein the model on how to fill up the Postman book is enclosed for the guidance of all concerned so that a uniform procedure is followed on the issue. In the said model entry in Postman book, columns 3 and 6 are left blank. The examiner who valued the 107 answer scripts of Paper A1 from Manjeri Postal Division appears to have not given full marks to those who have left the columns 3 and 6 blank. This is

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slightly at variance with the guidelines. But no prejudice is caused to the applicant as all the candidates from Manjeri postal Division have been subjected to the same yardstick in evaluating the paper A1. The applicant has not been discriminated vis-a-vis his colleagues from the Manjeri postal Division. If the applicant alone is given the benefit of revaluation of his answer script of Paper A1 of the Postman Examination, 2009, it would be unfair to all others who were similarly assessed in the Manjeri Postal Division in the year 2009. The candidates who qualified for appointment as Postman against 2 vacancies were selected based on their over all performance despite the negative marking for leaving columns 3 and 6 blank. The applicant had checked the answer scripts of the selected candidates. He has no complaint that the examiner had not put 'X' mark in column 3 and 6 in their answer scripts. If the answer script of Paper A1 of the applicant is revalued, then for all 107 answer scripts, revaluation is to be done. Further, if uniform yardstick is applied in the revaluation, the result is not likely to change because despite having negative marking for leaving the columns 3 and 6 uniformly, the selected candidates will come out at the top of the list of candidates selected based on their over all performance. Therefore, the balance of convenience is also not in favour of the applicant.

12. We do not find any extraneous consideration, bias or arbitrariness on the part of the examiner in evaluating the paper A1, slightly at variance from the model for filling up the Postman book as at Annexure A-6, resulting in discrimination against the applicant as he has done the valuation of all 107 papers from the Manjeri Postal Division by the same yardstick. Still we would hold that it would have been better, had he done the valuation strictly

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according to the guidelines. The order of the Tribunal in O.A. no. 736/2009 to revalue the answer scripts without giving weightage of marks in entering articles in groups in Postman book has no application to this case as the applicant has no similar grievance. It is settled legal position that the Court should not direct revaluation of papers unless there is gross discrepancy in awarding marks. In the instant case, we do not find sufficient reason to revalue 107 papers from the Manjeri Postal Division.

13. In order to maintain the objectivity and uniformity in evaluation of the answer scripts, the guidelines in this regard should be strictly adhered to by the examiner. Any attempt on the part of the examiner to improve upon the guidelines, howsoever the well intentioned, is likely to cast a doubt on the impartiality and objectivity of the valuation of papers. The respondents should ensure that the examiners follow strictly the guidelines as they are, in evaluating the answer scripts in future.

14. In the light of the above discussion, the O.A. is dismissed with no order as to costs.

(Dated, 25th October, 2011)



K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER

cvr.