O.A. NO. 614 OF 2009

Wednesday, this the 10th day of February, 2010.

CORAM:

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

T.N. Mollykutty,
W/o. Sunilkumar, working as
Postman, Kattappana South P.O.,
Residing at Sreenilayam House,
Kattappana South P.O., Idukki Dist.   ...   Applicant

(By Advocate Mr. P.C. Sebastian)

versus

1.   The Chief Postmaster General,
         Kerala Circle, Thiruvananthapuram.

2.   The Superintendent of Post Offices,
         Idukki Division, Thodupuzha.

3.   The Union of India, represented by
         Secretary to Government of India,
         Ministry of Communications,
         Department of Posts, New Delhi.

4.   The Director General of Posts,
         Department of Posts,
         Dak Bhavan, New Delhi.   ...   Respondents

(By Advocate Mr. M.M. Saidu Muhammed, ACGSC)

The application having been heard on 10.02.2010, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE Mr. GEORGE PARACKEN, JUDICIAL MEMBER

The main prayer of the applicant in this O.A. is to direct the respondents to review her answer book of Paper II Arithmetic (Annexure A4) in a just and fair manner and to consider whether she can be awarded at least 05 more marks to the answer to question No.6 in the said paper, which according to her, is atleast partially correct.

2.   The applicant has been working as Postman, South Post Office, Kattappana on permanent basis since 1995. She was a candidate for the Departmental examination for promotion to the cadre of Postal Assistants/Sorting Assistants from the Lower Grade Officials in the Kerala Circle held on 25.04.2004 at all the Divisional Headquarters in accordance with the Department of Posts (Postal Assistants/Sorting Assistants) Recruitment Rules, 2002. According to the Annexure A1 notification dated 03.01.2004 issued for holding the aforesaid examination, minimum qualifying marks were 40% for general candidates and 33% for SC/ST candidates in each paper. The examination consisted of three papers namely, Paper I - Essays, General English/General Hindi and Grammer,   Paper II - Airthmetics and Paper III - based on P&T Manuals.

3.   According to the applicant, she has answered very well in all the three papers and was confident to get qualifying marks in them. However, as per the Annexure A2 result issued by the Respondent No.1, she was not declared qualified and only one candidate, namely, Mr. P.S. Sajimon was declared qualified from the Idukki Division as against 9 vacancies ear-marked for the unreserved candidates.   As per the information regarding the marks awarded to her in each of the papers of the said examination made available to her by the respondents on her request, she failed only in Paper II (Airthmetics) for want of 05 marks. Thereafter, she obtained a copy of the answer sheet of the said Paper II under the Right to Information Act and it has been annexed as Annexure A4 with this O.A. On verification, she found that the examiner valued all the answers but as regards answer to question No.6 was concerned, though she was awarded full 20 marks, it was cancelled later awarding only '0' marks. According to her, her answer to the aforesaid question was fully correct

but the examiner has not given any marks, in an arbitrary manner. However, she submitted that, even if the answer was only partially correct without indicating all the required steps, the examiner should have award her at least some marks depending upon the number of steps written by her and the final answer arrived at which was fully correct. If at least 05 marks out of 20 for the said question were given to her, she would have got the minimum qualifying marks of 40% for that paper and she would have got declared selected for promotion.

4.   The respondents in their reply has denied that the applicant has correctly answered question No.6. They have submitted that in the Annexure A3 question paper itself there was a stipulation that "clear step by step solution should be written instead of a final answer alone". However, the answer script of the applicant would show that besides copying the data given in the question, she has not written even a single step of the formula/equation, which led to the answer. But the final answer was miraculously correct. Therefore, she was not given any mark for the said answer.

5.   We have heard learned counsel for the applicant and the respondents. We have also perused the Annexure A3 question paper and its Annexure A4 answer sheets which have been annexed with this O.A. We have also compared the answers given by the applicant to question Nos.6 and 7 as test cases. The question No.6 and the answer given to it by the applicant read as under :-

Question No.6 :-
"If twice the son's age in years is added to the age of his father, the sum is 90. If twice the father's age is added to the age of the son, the sum is 120. Find their age."

Answer to Question No.6 :-

"Son's age = x
twice the son's age added to the
age of his father = 90
twice the father's age added to the
age of the son = 120
Son's age = 20
twice the son's age + father's age = 90
20x2+50 = 90, 40+50 = 90.
Father's age twice + son's age = 120
50x2+20 = 100, 100+20 = 120.
Son's age = 20 years, Father's age = 50 years."

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Similarly, question No.7 and its answer are also reproduced as under :-

Question No.7 :-

"A shopkeeper buys 20 Kgs grain at Rs.1.50 per Kg, 40 Kgs of grain at 90 paise per Kg. He mixes them and sells 1/3 of the mixture at Re.1 per Kg. At what rate should he sell the remaining mixture so that he may earn a profit of 25% on the whole."

Answer to Question No.7 :-

"20 Kgm Rs.1.50 per Kg. = 20x1.50 = Rs.30
40 Kgs 90 ps/Kg   = 40x90ps = Rs.36

         Total cost   = Rs.66
                         ========

He mixes them and sells 1/3 of the mixture at Rs.1/Kg.
Total 3/3 Kgm = 20+40 = 60 Kgs.
                        =======
1/3 of 60 Kgs = 60/3   = 20 Kgs.
           20x1   = Rs.20.
                        =======

Balance 40 Kgs in Rs.66.20 = Rs.46
Balance mixture = 40 Kgm = Rs.62.50 ps.

SP of 1 Kg Balance Mixture = Rs. 1.56
                         =============
Total selling price   = Rs. 82.50
                         =============
Profit = 82.50 -
         66.00

         16.50
         ======= "

6.   While the examiner has initially awarded full 20 marks to the answer No.6, he cancelled it, later. However, the examiner awarded her 10 marks out of 20 for the 7th answer, probably because it was only partially correct. The contention of the applicant is that when she was given 10 marks out of 20 for the answer No.7 which was partially correct, the same procedure should have been adopted by the examiner in the case of answer No.6 also, even if, for argument sake, the said answer was only partially correct.

7.   We find merit in the contentions of the applicant. When question No.7 has been answered without following all the necessary steps and the examiner has awarded 10 marks out of 20 for it, the answer to question No.6 also should have got some marks depending upon the number of correct steps and the undisputedly correct final answer written by the applicant.

8.   We have seen that according to Annexure A2 list of candidates declared to have been passed in the LGO Examination for promotion to the cadre of PAs/SAs held on 23.05.2004, 27 candidates have passed in the examination and have been appointed for the post. If the manner of awarding of the marks to the Applicant and those 27 candidates was similar, the applicant cannot have any valid complaints in the matter. However, in order to find out whether there was any injustice was done to the applicant or whether she was discriminated in the matter of awarding marks, some comparative study of the answers to question No.6 given by those 27 candidates and the applicant has to be done by an independent and qualified examiner. We, therefore, direct the 1st respondent, namely, Chief Postmaster General, Kerala Circle, Thiruvananthapuram to order for a comparative study and to obtain a report thereof. If the report reveals that the applicant was denied justice in
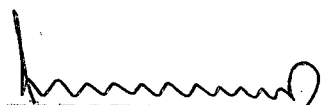
awarding some marks to the answer to question No.6, the examiner shall award the required number of marks to that answer. Thereafter, if she is found secured the minimum requisite percentage of marks, she shall be treated as passed along with the said 27 candidates who have already declared as qualified in the examination and appoint her as Postal Assistant/Sorting Assistant with all consequential reliefs except back wages.

9.   With the aforesaid direction this O.A. is disposed of. The respondents shall undertake the aforesaid exercise within a period of two months from the date of receipt of the copy of this order under intimation to the applicant. No costs.

(Dated, the 10th February, 2010.)

K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER

GEORGE PARACKEN
JUDICIAL MEMBER

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