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**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A. NO. 161/2006**

**TUESDAY THIS THE 10<sup>th</sup> DAY OF JULY, 2007**

**C O R A M**

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN  
HON'BLE GEORGE PARACKEN, JUDICIAL MEMBER**

P. Anukumar S/o V. Ponnannan  
Group-D, Office of the Chief Postmaster General  
Kerala Circle, Thiruvananthapuram  
residing at Achu Nivas  
Pravachambalam, Nemom PO  
Trivandrum-695 020

..Applicant

By Advocate M/s. Shafik M.A., K.M. Andhru, Shemeena Salahudeen,  
Safiya Shafik, P.C. Kunjappan and Simla Prabhakaran

Vs.

- 1 Union of India represented by  
Chief Postmaster General,  
Kerala Circle, Trivandrum.
- 2 The Director of Postal Services (HQ)  
O/o the Chief Postmaster General  
Kerala Circle, Trivandrum-695 033
- 3 The Assistant Postmaster General  
O/o The Chief Postmaster General  
Kerala Circle, Trivandrum-695 033.

..Respondents

By Advocate Mr. S. Abhilash, ACGSC

**ORDER**

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN**

The applicant herein is a Group-D employee having 14 years of service in the Postal Department, Kerala Circle and is aggrieved by Annexure A-1 order of the respondents refusing his request for

reevaluation of the answer Papers I & II of the LGO examination held on 24.4.2005 in which he had appeared.

2 The facts of the case in brief are as follows:- The applicant has studied upto B.Sc and is a qualified Pharmacist. He belongs to SC community. He had entered the department as Casual Mazdoor w.e.f. 23.3.1988 and was conferred with temporary status w.e.f. 29.11.1989. On completion of 3 years service, he was treated on par with temporary Group-D w.e.f. 29.11.1992. He was appointed as Group-D w.e.f. 24.6.1993 and was confirmed in Group-D cadre w.e.f. 24.6.1995 after successful completion of probation. Thus the applicant has 14 years of service as Group-D in the Kerala Circle. The next promotion for the applicant is to the post of Postal Assistant and therefore he appeared in the examination held on 24.4.2005. As per the result declared he has not qualified in the same and he sought for re-totalling of the marks which is provided for in the instructions and he was intimated that he got 30 marks for Paper-I, 28 marks for Paper II and 48 marks for Paper III. Since his understanding was that he has performed very well in papers I & II in which he was shown to have failed, he sought for a review of the results by Annexure A-3 representation. By Annexure A-4 letter he was informed that there was no mistake in the re-totalling. He immediately submitted Annexure A-5 representation calling for reevaluation of the answer sheets which request has been rejected by the impugned order. Since the applicant apprehended improper valuation of the answer sheets he requested for photocopy of the

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valued answer sheets under the Right for Information Act which was rejected. Hence he has prepared a specimen of his answer papers I and II and got them evaluated by English and Mathematics Teachers of Government GGHSS Cotton Hill Trivandrum and as per their evaluation he got 63 marks in Paper-I and 52 marks in Paper II. The short contention of the applicant is that the rules relating to barring of revaluation contained in Appendix No. 37 of P & T Manual Vol. 4 has no force of law and they are only guidelines and that cannot be taken as a bar for the power of judicial review vested with this Tribunal and in deserving cases the Tribunal have been calling for answer papers and directing revaluation of the same. Therefore he has prayed that the same direction should be granted in his case also.


3 The specific reliefs sought for are as under:

I To call for the records leading to Annexure A-1 to A-11 and to quash Annexure A-1

II To declare rule 15 of Appendix 37 of P & T Manual Volume IV as unconstitutional, ultra vires, unreasonable and void.

III To call for the answer sheet in Paper-I & II of the applicant of the departmental examination conducted on 24.4.2005 for appointment to the post of postal Assistant/Sorting Assistant and to direct the respondents to revalue the same or to get it revalued by an independent agency and to revise the marks secured by him in Paper-I and II and declare him as passed in the examination

IV To issue appropriate direction or order to revise the select list and to appoint the applicant also as Postal Assistant in Trivandrum division immediately on the basis of the marks on revaluation.



V To issue appropriate direction or order directing the respondents to appoint the applicant as Postal Assistant against the vacancy reserved for SC in respect of the vacancies earmarked for lower grade officials and to grant him all consequential benefits with effect from the date of his entitlement.

VI To grant such other reliefs which this Hon'ble Tribunal may deem fit proper and just in the circumstances of the case

and

VII To award costs to the applicant

4 Respondents have filed a reply statement admitting the service particulars furnished by the applicant. The averments regarding the applicant's appearance in the examination and further request for revaluation etc. are also admitted. They have averred that the rules contained in Appendix 37 of P & T Manual Vol. IV regarding conduct of Departmental examination are legally valid and has been held to be so by this Tribunal in O.A. 708/2002. In O.A. 841/96, this Tribunal has also held that prayers for revaluation of answer papers cannot be granted because there is no fundamental right to get answer papers revalued, unless any malafide has been proved there is no ground for summoning of answer papers in each and every case and that such a direction by the Tribunal would amount to interference in the day-to-day functioning of the administration in the conduct of examinations. They further contend that the applicant's contentions are totally unjustified and unsustainable, as admitted by the applicant himself that he had appeared for the examination three times earlier and failed to qualify.



4 No rejoinder has been filed.

5 The applicant filed M.A.200/07 for a direction to produce the "Keys" to the answers prepared by the department and supplied to the examiners which was allowed and accordingly the respondents produced the Answer papers as well as the 'Keys' to the answer papers. On the date of hearing the learned counsel for the applicant submitted that there was no need for detailed arguments as the 'Keys' to the answer papers and the answer papers are available, with the Tribunal and the specimen copies of the answer papers valued by an independent examiner were also available with the records and hence the Tribunal may verify the same and satisfy themselves. The challenge against the rules etc. was not pressed. On these matters the respondents in the reply statement averred that the Tribunal had already given its findings, earlier in O.A. 708/02

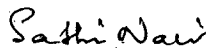
6 Appearance in any examination is on the basis of trust between the examinee and the examiner and in the examinations conducted by the Government or any other body it is implied that the examiner would make a fair assessment of the performance of the examinee and that the examinee would accept the award of the examiner. Judicial interference is warranted only if there is a strong case of malafide or arbitrariness in the conduct of the examination. In this case, the records have been produced before us and we have gone through the answer sheets of the applicant in Papers I & II with reference to the keys to the questions produced by the learned

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counsel for the respondents. We find that the awarding of the marks has been done strictly in accordance with the Keys and there is no basis at all for the applicant's contentions that he would have secured about 60 % marks and that the evaluation is vitiated. We could not find any discrepancy in the valuation and the marks awarded when checked with reference to the "Keys". The averments of the applicants have not been substantiated by any concrete evidence. The O.A has no merit and it is accordingly dismissed. No costs.

10.7.2007

  
**GEORGE PARACKEN**  
**JUDICIAL MEMBER**

  
**SATHI NAIR**  
**VICE CHAIRMAN**