

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A No. 315/2011

Wednesday, this the 20th day of June, 2012.

CORAM

**HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Ms. K.NOORJEHAN, ADMINISTRATIVE MEMBER**

**P.Anilkumar,
Postman, Medical College.P.O.
Thiruvananthapuram.**

- Applicant

(By Advocate Mr Vishnu S Chempazhanthiyil)

v.

**1. The Senior Superintendent of Post Offices,
Thiruvananthapuram North Postal Division,
Thiruvananthapuram-695 001.**

**2. Union of India represented by the
Chief Postmaster General, Kerala Circle,
Thiruvananthapuram-695 003.**

- Respondents

(By Advocate Mr Pradeep Krishna, ACGSC)

This application having been finally heard on 20.06.2012, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER

The applicant is a post man in Thiruvananthapuram North Postal Division. He took part in the LG O examination for promotion to the cadre of Postal Asst/sorting Asst as a general candidate. Notified vacancies were 15 of which 10 pertain to unreserved category. The result of the examination indicated only two candidates having been qualified for promotion. Thus the rest of vacancies (eight) remained unfilled. The applicant applied for mark lists and he could find

that he had passed on all subjects except paper I, and he had called for the copy of the answer sheet of paper I and observed that at least in respect of two questions marks were not awarded though answers to these two questions were not wrong. Provision exists for correction or revaluation of the answer sheets under certain circumstances as contained in Department of posts letter dated 02-08-2010, and one of the contingencies for which such a re-evaluation is permissible is that for the same answer the Examiner awarded marks to one candidate and to another candidate no marks were assigned or the answer is struck off as wrong. According to the applicant, his case falls under this category and hence this application for a direction to the respondents for evaluation the paper I and for further action to promote the applicant. The details about the relevant questions and as to how the answers to these questions were re-evaluated by the respondents has been explained in paragraphs 4.6 and 4.7 of the application.

2. Respondents have contested the OA and have contended that the OA has to be dismissed as it is covered by a recent the judgment of the Apex Court in the case of Civil Appeal 907 of 2006 – **HP Public Service Commission vs Mukesh Thakur and another** wherein the Apex Court has held that the court cannot take upon itself the task of statutory authorities and in the absence of any provision under the statute or statutory rules or regulations the court should not generally direct revaluation. Certain other cases have also been cited by the respondents in their reply. However insofar as the facts were concerned there has been no rebuttal by the respondents, save that the respondents are justified that the applicant has been given the correct marks.

3. Counsel for the applicant argued that in two questions, no marks were awarded to the applicant, even though the two are not wrong answers but right



answers, on the ground that the same was not the one as given to the examiner in the Key. The applicant could verify in respect of at least one question, that another candidate had been given marks for the answer which is not in accordance with the key but which was matching to the question. The applicant claims the same treatment in his case as in his case too the answer is fully matching with the question. While the above is for one of the answers for which no marks were awarded, in yet another question the answer was right, yet nil mark was awarded. If these two answers were correctly evaluated, the applicant would obtain the minimum qualifying mark in the said paper. The said two questions are as under: –

(a) Word opposite to (anonym) **"common"** has been answered as **"rare"** by the applicant while the key indicated **"uncommon"**. The answer the applicant has been struck off as wrong.

(b) For the question (fill in the blank) "would you like to _____ a message," the applicant filled in the blank with the word, **"hear"**, and the same has been struck off as incorrect answer and no mark has been awarded. For, the key furnished to the examiner contained the word, **"leave"** as the answer. However, in yet another case, the candidate who had written **"send"** which is also not in conformity with the key, has been awarded full mark for that question. (copy of the said Answer sheet of the other candidate had been filed by the applicant)

4. The counsel submitted that the antonym to the word common is 'rare' as contained in one of the reputed Internet linked dictionary (Collins) vide Annexure A-9. Another authority has also been quoted by the counsel for the

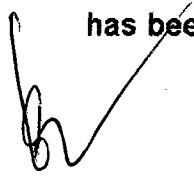


applicant in regard to this question.

5. As regards the answer to the other question, the counsel contended that the blank space could be filled up by any **infinite verb** which suits the context. One could **'send'** a message, or **'leave'** a message, or **'receive'** a message, or **'hear'** a message and all these verbs being of infinite character are appropriate to the context,

6. Counsel for the respondents has not denied the fact that another candidate whose answer did not match with the key given but which carries another answer suiting the context of the question (**send a message**) has been given full marks for the said answer. As regards answer to the question - opposite of **'common'**, the counsel stated that **'rare'** is one of the opposite words to the said word, **common**.

7. Arguments were heard and documents perused. As to the first question namely opposite to the word **"common"**, answer given by the applicants is perfectly correct as the same is on the basis of acclaimed dictionaries (Collins). Counsel for the respondents has also agreed that the said answer is not incorrect, but the same has not been reflected in the key furnished to the examiner. As regards the other question, answer written by another candidate is also not the same as the one in the key, but the answer fits in the context and the said candidate had been awarded the mark for that question. The applicant has also used a term, which fits in the context, and his answer is also not the same as in the key. As given to the other candidate, marks should have been given to the applicant as well for this question and grounds for revaluation i.e. non giving of such marks for the answer to one while for a like answer mark has been awarded to another candidate, makes the case of the applicant to fall



in that category (extracted earlier), for which revaluation is permissible.

8. In view of the above, the **OA is allowed**. Respondents are directed to revalue Paper I of the applicant especially the above two questions and on the basis of the same, accommodate the applicant in one of the vacancies still available. His seniority, in case of promotion materializing, would be fixed in accordance with law. This order be complied with, within a period of two months from the date of communication of this order.

9. No costs.


K.NOORJEHAN
ADMINISTRATIVE MEMBER


Dr K.B.S.RAJAN
JUDICIAL MEMBER

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