

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 489 of 2006

Reserved on 6.3.2014

Pronounced on 24th March, 2014

Hon'ble Mr. Navneet Kumar, Member-J
Hon'ble Ms. Jayati Chandra, Member-A

Rajeev Kumar, aged about 47 years, S/o Sri S.P. Rai Saxena, R/o House No. 295/67-B Mohalla Ashrafabad, Lucknow present posted as Accounts Assistant in the office of Deputy Financial Accounts Advisor and Chief Accounts Officer, Workshop, Northern Railway, Lucknow.

.....Applicant

By Advocate : Sri U.C. Saxema

Versus.

1. Union of India through the Chairman, Railway Board, Railway Bhawan, New Delhi.
2. Financial Commissioner, Railways, Railway Board, New Delhi.
3. General Manager, Northern Railway, Baroda House, New Delhi.
4. Financial Advisor and Chief Accounts Officer, Northern Railway, Baroda House, New Delhi.
5. Deputy Financial Advisor and Chief Accounts Officer (Workshop), Northern Railway, Alambagh, Lucknow.

.....Respondents.

By Advocate : Sri Praveen Kumar for Sri B.B. Tripathi

O R D E R

Per Ms. Jayati Chandra, Member (A)

The applicant has filed this O.A. under Section 19 of Administrative Tribunals Act, 1985 seeking following relief(s):-

"(a) issuing/passing of an order or direction to the respondents to declare the correct result of the applicant after examining the answer sheet as per correct code 05-COS Procedure instead of Code 011 - General Expenditure Accounts.

(aa) issuing/passing an order or direction to the respondents to declare the applicant as successful/pass in the subject COS Procedure of the IREM 2000 examination (Part-II) and grant all consequential relief in service i.e. promotion on the post of Inspector of Accounts on the basis thereof.

(b) issuing/passing of an order or direction to the respondent to allow the applicant to appear in the

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Appendix III-A (IREM) Examination III-A (IREM), Examination 2006 part I.

- (c) *issuing/passing of any other order or direction as this Hon'ble Tribunal may deem fit on the circumstances of the case.*
- (d) *Allowing this Original Application with costs."*

2. The facts of the case, as averred by the applicant, are that he was working as Accounts Assistant from the year 1990. In May, 2004, he became eligible for further promotion to the post of Inspector Store Accounts after qualifying the examination for such post as provided in Appendix III-A of Indian Railway Establishment Manual (In short IREM). The promotion channel available to the Accounts Assistant are Section Officer (Accounts) or Inspector of Store Accounts (ISA). The said examination is held in two parts, first part consisting of compulsory subjects and Part II consisting of optional subjects. Although the subjects are common for all the streams of promotion, the various combinations available are different for each stream. The applicant gave his option for promotion to the post of ISA. The compulsory subjects for ISA are Advanced Book Keeping and General Rules and Procedure and optional subjects are (i) Store Accounts, (ii) COS Procedure. The list of candidates from all India, who had applied for Part I of the same examination to be held in the year 2004, was sent from every accounts units. Part-I examination was held from 1.6.2004 to 2.6.2004. A copy of candidates appearing in Part I examination has been annexed as Annexure no.2. The applicant was allotted Roll No. 15920. It was noticed by the applicant that the subjects which were allotted to him as per aforesaid list contained at sl. No. 20 were compulsory subjects namely Advanced Book Keeping (ABK) and General Rules and Procedure (GRP) and the optional subjects shown as Books and Budget and Expenditure. It is specifically pointed that the list of optional subjects against the name of the applicant were wrongly shown as Books and Budget and Expenditure instead of Store Accounts and COS Procedure. The applicant noticed the mistake and made a representation to respondent no.5 through his letter dated 19.3.2004 pointing out the discrepancies and requesting for necessary correction. The applicant sent reminder dated 6.6.2005. As the wrongful allotment of subjects did not vitiate the holding of Part I examination i.e. compulsory subjects,

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the applicant appeared in Part I examination. More-so, he was advised by the respondent no.5 that the date of part II examination has still not been declared. It is settled principle that only those candidates, who qualified in Part I examination will be called for Part II examination. Therefore, there was ample time for correcting the mistake regarding allotment of subjects with cod as optional subjects of the applicant. The applicant cleared Part I examination as per the result declared on 24.3.2005 (Annexure-6). The list of the persons who would be eligible to appear in Part II examination was drawn up and circulated to every accounts units through Annexure no.7. The name of the applicant was figured in the list of successful candidates at sl. No. 20. The optional subjects were also corrected and mentioned as i.e. COS Procedure and Stores Accounts. The applicant appeared in Part II examination and successfully completed the same. The marks obtained by the unsuccessful candidates in Part II examination held in the year 2004 were communicated to the units vide order dated 12.7.2006 (Annexure-9). It was observed by the applicant from the marks-sheet of unsuccessful candidates that the optional subjects as having been filled up by him was wrongly coded. More specifically the marks obtained by the applicant in both the papers i.e. with book and without book of both the optional subjects Stores Accou8nts (with book 43 and without book 60) while the other subject has been shown as Expenditure and marks obtained as (with book 44 & without book 44). In the cross list, the codes which has been used for indication of subject against which the name of the applicant are 07 and 011. Code 07 has been used for Stores Accounts and Code 011 has been used for COS Procedure, which according to the applicant, is absolutely wrong. As per the applicant, the correct of COS Procedure is 05 which ought to have been used for the optional subjects COS procedure while 011 has been used is meant for General Expenditure Accounts and the same has neither been opted nor prescribed in the list of optional subjects for the examination to the post of Inspectors of Store Accounts. As per the applicant, had the subject code been correctly assigned, the marks obtained by him would have cleared the bench mark for eligibility. After noticing this mistake, the applicant immediately contacted the office of respondent no.5 through his representation dated

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21.7.2006 (Annexure-10) followed by reminder dated 20.8.2006 (Annexure-11). Further, the respondents decided to hold second set of examination in the year 2006 in which exemptions were granted to those candidates, who had been declared successful in Part I examination held in the year 2006 and they could directly appear for Part II. Although, the applicant had cleared Part I examination in the year 2004 and had challenged the result of Part II of 2004 on the ground of incorrect assignment of subject code, he was not granted exemption from appearing in Part I examination of 2006 and granted permission to directly appear for Part II examination. Being aggrieved on both counts, the applicant filed the instant O.A. and also prayed for production of original answersheets. The O.A. was admitted vide order dated 19.10.2006. The applicant had initially filed an application for summoning of original records of the examination, which came up for hearing on 22.2.2007 and in the presence of the respondents' counsel an order was passed that the same will be considered at the time of final arguments.

3. The respondents have filed detailed Counter Reply on 19.1.2007. They have admitted the mistake committed in indicating subject code assigned to the applicant initially. However, the subject code was correctly assigned to the applicant and he appeared in the correct subjects. He was marked accordingly. The mistake was made only in the publication of cross list circulated by Annexure no.9. This was in the nature of typographical/clerical mistake. The relevant records were thoroughly checked and the result was scrutinized as per the correct subject code, but marks obtained by the applicant remained the same. He had obtained 43 marks in subject Stores Accounts with books and 60 without books and COS procedure with book 44 and 44 without book. This was inadvertently shown as General Expenditure, whereas it was COS Procedure. Further, the correct list was published and produced as Annexure no. CA-1. In so far as appearance in the examination to be held in the year 2006, the applicant was issued an Admit card etc., but he refused to take the same and did not appear in the Part I examination of 2006.

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4. Rejoinder Reply has been filed by the applicant reiterating the pleas taken in the O.A. Supplementary Counter Reply has also been filed by the respondents denying the averments made in the Rejoinder Reply and reiterating the stand taken in the Counter Reply.

5. We have heard the learned counsel for the parties and perused the pleadings on record.

6. Before Coming into the merit of case, we are constrained to comment on behavior of the respondents. This O.A. was filed on 10.10.2006 after providing advance copy to the respondents' counsel. The case was admitted vide order dated 19.10.2006. The Misc. application for summoning of records was presented before the Tribunal on 22.2.2007 and after hearing the parties this Tribunal categorically vide its order observed that the "same will be considered at the time of final arguments." It means that it was very much in the knowledge of the respondents that a case has been filed by the applicant before this Tribunal and the production of answersheet had been prayed for. Further, orders were passed on 17.7.2008 for production of answersheet of Part II examination of 2006 by order dated 26.8.2008, that of records related to 2004.

7. In compliance of the order, the respondents produced photocopy of the relevant file wherein it is noted that the files relating to the examination of 2004 (barring 2 required in Courts' case + 2 required in RTI) have been destroyed. In this case the whole matter has been treated very casually and irresponsibly. A perusal of said document would show that the Section Officer concerned had pointed out in the noting dated 26.4.2007 to the concerned higher officer that the answersheet of two candidates are required in Court's case, details of which has been given in S-4. This part has not been produced in this O.A. Thereafter as vigilance clearance certificate was sought by noting dated 27.4.2007 vigilance gave its clearance with regard to itself. This does not include the case of the applicant pending before this Tribunal or anywhere. The certificate of vigilance department was used as a green flag for destroying the records on 3.9.2007. The date of destruction is long after the date of admission of this O.A. (with full knowledge of respondents). The initial application for

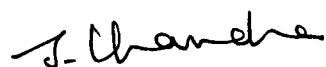
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summoning of records (22.2.2007) on which an order was passed was in full knowledge of respondents.

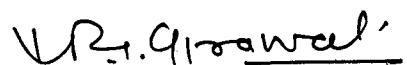
8. It is regrettable that the respondents, despite being in the possession of the knowledge that the outcome of the examination of 2004 is under challenge have chosen to destroy the relevant files.

9. In view of the absence of any convincing information to the contrary averments of the applicant are correct. The matter is remanded back to the competent authority for declaring the applicant successful in the Part II examination held in 2004 for the post of ISA and grant him all consequential benefits.

10 With the aforesaid terms, the O.A. stands disposed of with no order as to costs.



(Ms. Jayati Chandra)
Member-A


(Naveen Kumar)
Member-J

Girish/-