

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.: 330/2000

Date of Decision : 17.7.2000

Mrs. Prabha Lende Applicant.

Shri S.D.Dighe Advocate for the  
Applicant.

VERSUS

Union of India & Others, Respondents.

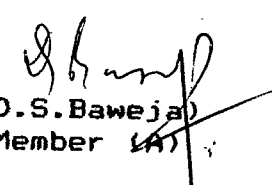
Shri R.R.Shetty for Advocate for the  
Shri R.K.Shetty Respondents.

CORAM :

The Hon'ble Shri D.S.Baweja, Member (A)

The Hon'ble Shri S.L.Jain, Member (J)

- (i) To be referred to the Reporter or not ?
- (ii) Whether it needs to be circulated to other  
Benches of the Tribunal ?
- (iii) Library

  
(D.S.Baweja)  
Member (A)

mrj\*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.330/2000

Monday this the 17th day of July, 2000.

CORAM : Hon'ble Shri D.S.Baweja, Member (A)

Hon'ble Shri S.L.Jain, Member (J)

Mrs. Prabha Lende,  
6, Saishakti Hsg.Society,  
Pareira Wadi, Pipe Line,  
Saki Naka, Mumbai.

... Applicant

By Advocate Shri S.D.Dighe

V/S.

1. The Union of India through  
Controller General of Accounts,  
Ministry of Finance, 7th Floor,  
Lok Nayak Bhawan, Khan Market,  
New Delhi.
2. Pr.Chief Controller of Accounts,  
Central Board of Direct Taxes,  
9th Floor, Lok Nayak Bhavan,  
Khan Market, New Delhi.
3. Dy. Controller of Accounts,  
Zonal Accounts Office,  
Central Board of Direct Taxes,  
Aaykar Bhavan, M.K.Road,  
Mumbai.

... Respondents

By Advocate Shri Ravi Shetty  
for Shri R.K.Shetty

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O R D E R (ORAL)

(Per : Shri D.S.Baweja, Member (A))

The applicant is working as Junior Accountant in the Office of Dy. Controller of Accounts, Zonal Accounts Office, Central Board of Direct Taxes, Mumbai. She appeared in the Junior Accounts Officers (Civil) Examination Part-II in October, 1999. She passed in all the papers except Paper No. III. She has filed this OA. taking a ground that she has been granted very low marks in this paper when compared with high marks in the other papers. She therefore alleges that the marking of the paper has been done incorrectly and arbitrarily. She has sought the following reliefs : (a) to call for the answer-book of the applicant of Paper III of Part-II examination as well as model answer-book and direct the respondents to re-evaluate the answer-book in order to verify the correctness of the 28 marks secured in Paper III. In case the marks are incorrect or abnormally low, the respondents be directed to declare the applicant having passed in Paper III. (b) to appoint Expert Committee for re-evaluation of the answer Paper III of Part II of the applicant on the basis of model answer book of the said subject prepared by the respondents and to direct Expert Committee to submit the Report before the Tribunal.

2. Respondents have filed the written statement opposing the OA. The respondents submit that the answer-book of the applicant has been properly evaluated. The applicant had made a representation and based on the same, the answer-book was

..3/-



rechecked and no mistake either in evaluation or totalling was found. The applicant was suitably advised of the same as per letter dated 30.5.2000.

3. The applicant has not filed any rejoinder reply.
4. We have heard the arguments of Shri S.D.Dighe, learned counsel for the applicant and Shri R.R.Shetty for Shri R.K.Shetty, learned counsel for the respondents.
5. The main stand of the applicant is that in all the other papers she has secured very high marks while in Paper III she has secured very low marks which points out that the marking of paper has not been done properly in comparison with the model answer-book. We find that except taking this ground, there is no other material on the record to support her contention that she has secured very low marks on account of incorrect or arbitrary marking of her answer-book in comparison with model answer-book. The applicant has also not cited any rules under which it is provided for re-evaluation and appointment of Expert Committee. The applicant has relied upon the judgement of the Hon'ble Supreme Court in the case of Madhya Pradesh Public Service Commission vs. Om Prakash Gupta & Anr., 1997 (6) SCC 645. On going through this judgement, we find that this does not help the case of the applicant. In this case, the Hon'ble High Court in the Writ Petition directed to set up an Expert Committee to



re-evaluate the answer-book of the petitioner. In the re-evaluation, he secured higher marks and was called for interview. However, he was not placed on the selection list. He filed 2nd Writ Petition and through the amendment he sought to raise the doubts regarding the key answers. He also sought production <sup>of</sup> question paper, key answers and answer book to enable him to demonstrate the incorrectness in key answers. Amendment was allowed by the High Court which was challenged before the Apex Court. The Hon'ble Supreme Court while holding that the amendment was hit by principles of res judicata has added that the proposed amendment also suffers from the infirmity as being based on no material. In the present case also the applicant except making some general submissions that since she has secured less marks in comparison to other papers and therefore marking was incorrect has not brought any material on the record to show that marking has been done incorrectly or arbitrarily. On the other hand, the respondents have brought to our notice the judgement of the Ahmedabad Bench in OA.NO.234/97 dated 6.10.1997 in the case of A.S.Thakar vs. Union of India & Ors. We note that in this OA. also a similar issue as in the present OA. had been raised. After referring to the judgement of the Hon'ble Supreme Court in the case of Sunil Kumar Bansal vs. Union of India, 1996 (7) SCC 106, the bench has concluded that there are no grounds to interfere and to refer the matter to Expert Committee for re-evaluation of the answer-book. We are in respectful agreement with what is held in the order. The Hon'ble

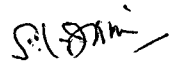
(a)


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High Court has also upheld the stand of the Tribunal in this case Wrip Petition 9129 of 1997 as per order dated 10.2.1998. As held earlier, in the present case we do not find fact and circumstance to concede the request of the applicant for re-evaluation.

6. The counsel for the applicant during the hearing raised several issues with regard to procedure being adopted for evaluation of answer-books and pleaded that some directions be issued to avoid arbitrary marking of the answer books. We note that no averments with any relevant rules to support his contention have been made in the OA. and, therefore, we cannot go into merits of this issue and lay down any directions to the respondents.

7. In the result of the above, we do not find any merit in the OA. and the same is dismissed with no order as to costs.

  
(S.L.JAIN)  
MEMBER (J)

  
(D.S.BAWEJA)  
MEMBER (A)

mrj.