

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A.No.422/98

Dated this Tuesday the 26th Day of February, 2002

Hon'ble Shri Justice Birendra Dikshit, Vice Chairman
Hon'ble Shri Gopal Singh, Member (A).

Sureshchandra S. Raikwar,
Welfare Inspector, Grade I,
S & T Department, under
C.W.M. Workshop, Byculla. Applicant

(By Advocate Shri K.B. Talreja)

Versus

1. Union of India,
through General Manager,
Central Railway, Mumbai CST-1.
2. Chief Workshop Manager,
(S & T), Byculla, Mumbai. Respondents.

(By Advocate Shri S.C. Dhawan)

ORDER (Oral)
{ Per : Justice Birendra Dikshit, Vice Chairman }

By this petition the applicant, who is a Senior Labour Welfare Inspector in the grade of Rs.6500-10500 (RSRP) has filed this O.A. for re-assessment / re-evaluation of the answer sheets of Assistant Personnel Officer (Group B Post). He has prayed that if found successful with general/relaxed standard then he be called for viva-voce test for consideration for selection to said post.

2. This O.A. has been filed by the applicant as he has apprehension that either there is deliberate mischief or there is genuine bonafide mistake on the part
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of examiner who has not assessed the paper fully or the examiner has failed to award marks on whole or part of questions which has resulted in not declaring his name amongst successful candidates in said examination. The basis of this apprehension of applicant, according to pleadings, appears to be his good academic record. The case of applicant further is that after commencement of the selection process and written test, the vacancies notified were 14 but after raising of age limit of retirement the vacancies are likely to be reduced and as vacancies are to be less than what are notified, ^{therefore}, selection process stands vitiated. The respondents in the reply have denied the stand of applicant. The respondents case is that on the representation made by applicant they carefully verified the answer sheets of the applicant and found that there is no error either in awarding or totalling of marks or in coding or de-coding of answer sheets. So far vacancies of limited departmental examination are concerned, according to respondents as there is going to be no increase in vacancies by raising of age limit for retirement, the selection process does not work to any prejudice to candidates.

3. The argument advanced by learned counsel for applicant is that the applicant has a very good academic *B. Sc. (Hons.)* ... 3 ...

career and has answered all the question of the answer sheets correctly and, therefore, his apprehension is reasonable. It is argued that the answer sheets be seen and examined by the Tribunal. The contention of learned counsel is that in case there is mistake then alone the applicant can get relief in this respect.

4. The allegation of mistake in answer sheet in awarding marks or in respect of coding or decoding has been specifically denied in para 16 of the written statement filed by the official respondents. The respondents have stated therein that they have verified the answer sheets of applicant and there is no error either in awarding marks or totalling or coding or decoding. The applicant has made averments in para 4 (e) to (h) that he has done well and he was surprised when he did not find his name in the list of successful candidates and written examination but beside such general averment nothing else has been pointed out to us on the basis of which we could consider that applicant's apprehension is reasonable. Merely on such averments we do not find any justification for going through answer sheets. Thus, the argument fails.

5. So far as re-assessment of vacancy on raising of age limit is concerned, the selection has been held for anticipated vacancies also. If the vacancies

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stand reduced in view of raising of retirement age then reduction of vacancies are not shown to be working to any prejudice to applicant or to anyone who would have applied in any manner whatsoever which may require examination or selection to be cancelled. The principle of law that appointing authorities are not supposed to fill up vacancies more than what are advertised is inapplicable to a case where more vacancies are notified but at the time of selection it is considered that vacancies to be filled up are lesser than what have been advertised.

6. We may mention here that the learned counsel for applicant has cited the case of Rajasthan Public Service Commission Vs. Chandan Ram & Anr. 1998 (1) SCSLJ 391. We have perused it and we find that in no way get any help from it in the matter where vacancies are to be reduced due to raising of age of retirement.

7. Thus, we do not find any ground for interfering in selection in selection held. The OA fails and is dismissed. No order as to costs.

Gopal Singh

(Gopal Singh)
Member (A)

B. Dikshit

(Birendra Dikshit)
Vice Chairman.

H.

~~Under/Under Date~~ dt 26/2/02
to Appn. Despatched
B. Dikshit (s)
26/2/02

AB