

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Dated this the 29th day of May, 2002

Coram: Hon'ble Mr.B.N.Bahadur - Member (A)
Hon'ble Mr.S.L.Jain - Member (J)

O.A.433 of 1998

Prabhakar Tukaram Khapekar - Applicant
(By Advocate Shri R.D.Deharia)

Versus

1. Union of India
through the General Manager,
Central Railway,
Mumbai.
2. The Chief Personnel Officer,
Central Railway, Mumbai,CST.
(By Advocate Shri S.C.Dhawan) - Respondents

ORAL ORDER

By Hon'ble Mr.B.N.Bahadur - Member (A) -

The applicant comes up to this Tribunal seeking the relief as follows:-

- (a) Order revaluation of the answer book of the applicant by an officer, other than the one who has valued the same and assess, the marks and declare result.
- (b) The applicant submits that the respondents have fixed the date of interview of the qualified candidates on 289.5.1998. In case the respondents are allowed to proceed with their plan, pending compliance of the prayer (1), above, great harm and injury will be caused to the future of the applicant. In fact, the order if passed on prayer (1) above by the Tribunal would become

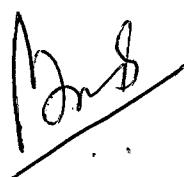


....2/-

infructuous, once the interview is completed, and the applicant will not be able to enjoy the fruits of the order of this Tribunal. In view of this position, it is prayed that the respondents may be restrained by an order an injunction by this Hon'ble Tribunal from proceeding with the interview on 28.5.1998 or any date thereafter, pending finalisation of this application.

- (c) In the event of the prayer at (2) not being granted, it may be decreed that the selection by the respondents as contemplated shall be subject to the outcome of this application.
- (d) The respondents may be directed to pay the cost of the application.
- (e) Any other relief this Hon'ble Tribunal may consider fit.

2. We have gone through the papers in the case, especially the OA and the reply statement filed by the respondents and have also heard the learned counsel on both sides viz. Shri R.D. Deharia for the applicant and Shri S.C. Dhawan, for the respondents. The main ground taken and strenuously argued by the learned counsel for the applicant is that the respondents having failed him



....3/-

in the written test cannot be correct and that it could have happened in view of needle of suspicion and possibility due to improper valuation, totalling, moderation coding/decoding. The applicant's learned counsel seeks to fortify his argument by stating that on three occasions earlier to this particular test, the applicant had indeed qualified by being successful at similar examinations but could not be selected in view of the fact that he was not then senior enough. Also that in a subsequent examination, held in 2001, he has been declared successful. It is difficult to imagine this argument as being a valid basis for our having come to the conclusion that since he has done well at other examinations, as the learned counsel argues, he must have deemed to have done well in the test/selection process, in question. This kind of conclusion would be nothing short of preposterous. It is not for this Tribunal to go into the merits and demerits of the examination system at large and grant reliefs.

3. The learned counsel for the respondents sought to depend on the matter decided by this Tribunal in its judgment dated 4.8.2000 in OA 510/99. Although the learned counsel for the respondents produced the answer sheet of the applicant before us, he argued that the Tribunal could not take up judicial review of the valuation. We have seen the aforesaid judgment dated 4.8.2000 and we find the following part of the judgment to be relevant and applicable to the present case.

".....The applicant cannot seek revaluation just on a presumption that she has done exceedingly well and is entitled to get pass marks. Any valuation of answer



paper done by examiner cannot be subject of judicial review until and unless it is alleged that the authority evaluating the answer paper acted with malafides."

4. In the present case no malafides are being alleged, either. It is not the function of the Tribunal to undertake a judicial review of the quality evaluation of the paper. We did go through the answer sheet provided to us cursorily and do not find any glaring omission like some question not being corrected etc. However, basically we go by the settled law that it is not for the Tribunal to go into the propriety of the assessment of answer sheet. It must be pointed out that it is preposterous for the applicant even without taking any ground of malice to ask for re-evaluation of the paper "in view of needle of suspicion" or the "possibility due to improper evaluation" etc.

5. The learned counsel for the Applicant took support from the judgment of the New Delhi Bench of this Tribunal in OA 2206 of 1993 (Dilip Singh and 11 others Vs. Union of India & another) decided on 24.1.1994 on the ground that through this judgment the Tribunal had indeed ordered re-evaluation of the answer sheets. The case has been decided on facts and circumstances relevant therein and cannot serve as ratio decendi.

6. In view of what has been discussed above, we find that there is no case made out by the applicant for our intervention. The OA, therefore, fails and is dismissed with no order as to costs.

S.L.Jain
(S.L.Jain)
Member (J)

mb

B.N.Bahadur
(B.N.Bahadur)
Member (A)