

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 11.10.2001

OA No.102/2001 & MA No.254/2001

Bansidhar s/o Shri Mangal Ram r/o Dhani Kariagram, Phulera Distt. Jaipur at present employed on the post of Daftri in the office of Senior Divisional Accounts Officer, Jaipur Division, Jaipur, Western Railway.

..Applicant

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. The Senior Accounts Officer, Western Railway, Jaipur Division, Jaipur
3. Shri Suresh Kumar Pareek, Record Sorter, Office of Dy. FA&CAO (Survey and Construction), Western Railway, Jaipur.
4. Smt. Santosh Sharma, Record Sorter, Office of Sr. Divisional Accounts Officer, Jaipur Division, Western Railway, Jaipur.
5. Shri Ramesh Chand, Record Sorter, Office of Dy. FA&CAO (Survey and Construction,) Western Railway, Jaipur.

.. Respondents

Mr. J.K.Kaushik, counsel for the applicant

Mr. U.D.Sharma, counsel for the respondents

CORAM:

Hon'ble Mr. Justice B.S.Raikote, Vice Chairman  
Hon'ble Mr. Gopal Singh, Administrative Member

ORDER

Per Hon'ble Mr. Gopal Singh, Administrative Member

In this application under Section 19 of the

*Gopal Singh*

Administrative Tribunals Act, 1985, applicant, Bansidhar, has prayed for quashing the impugned order dated 3.10.2000 (Ann.A1), notification dated 3.10.2000 (Ann.A2) and order dated 8.1.2001 (Ann.A3) and for a direction to the respondents to finalise the selection for the post of Record Sorter on the basis of earlier notification and the result of the written test dated 8.9.2000 with all consequential benefits.

2. Applicant's case is that he was initially appointed to the post of Peon on 19.7.1979 at Jaipur in the office of second respondent. He was promoted to the post of Daftry in the year 1985. The respondents had organised a selection for preparing a panel for promotion to the post of Record Sorter in the scale of Rs. 2750-4400. The applicant appeared in the written test conducted on 4.9.2000. He had qualified in the said test. This selection process including the result of the written test was cancelled abruptly by the respondents vide letter dated 3.10.2000 (Ann.A1) without assigning any reason. It is the contention of the applicant that he was the seniormost amongst the eligible candidates and had been working satisfactorily. He submitted a representation against the cancellation, however, to no avail. Subsequently, the written test was held on 29.11.2000 and his name does not find place in the list of candidates who have qualified for appearing in the viva-voce. Finally, many of juniors to the applicant were selected and placed on the panel (Ann.A3). It is the contention of the applicant that earlier selection was cancelled just to side track the genuine claim of the applicant. Hence, this

*Lopab Singh*

application.

2. In the counter, it has been stated by the respondents that as per the recommendations of the Selection Committee the first selection was cancelled, because there has been irregularities in marking the answer books and, therefore, a second selection was held. The respondents have produced the relevant records before us and we have perused the same.

4. We have heard the learned counsel for the parties and perused the records of the case carefully.

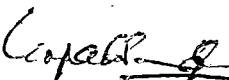
5. We have specifically gone through the answer book(s) of the applicant. Initially he was awarded 56 marks out of 100 marks and on review it was found that he had attempted 3 extra questions, which were evaluated and their marks were added to the total marks. It is also seen from the answer book(s) that in many cases the applicant was awarded much more marks than the answer deserves. On re-evaluation, it was found that the applicant was deserving only 38 marks out of 100 marks. Thus, he was not entitled to be declared successful. We have also seen the marks obtained by various candidates initially and on review from the original file and it is seen that there was wide variations in initial marking and in review marking. We are firmly of the view that the respondents were within their rights to review the earlier marking, when it came to notice that there were large scale manipulations in the initial marking. As has been pointed out above, the applicant was only entitled to be awarded 38 marks out of

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100 marks, whereas he was awarded 56 marks out of 100 marks. The applicant cannot claim advantage of wrong marking at the initial stage and as a matter of fact, he cannot challenge the right of the respondents in reviewing the evaluation. The learned counsel for the applicant has also brought before us the judgment and order dated 18.5.1993 passed in OA No.404/91 by this Bench. In that case, it was found that a uniform standard of marking was not maintained, thereby creating anomaly in the result of the written test. It was, therefore, observed by this Tribunal that the answer books be re-evaluated by any competent person or authority before declaring the result and it was not necessary that the entire test should be cancelled and a fresh test should be held. In the instant case, as has been discussed above, in the case of the applicant itself, there was wide variation of marking, whether a re-evaluation is done or the written test is cancelled is of no consequence to the applicant, as he cannot be declared successful. Thus, we find that the judgment and order cited by the applicant does not come to his rescue.

6. In the light of above discussions, we are firmly of the view that this application is devoid of any merit and is liable to be dismissed.

7. The OA is accordingly dismissed with no order as to costs. Misc. Application No.254/2001 is also dismissed, in view of the final order passed in the OA.

  
(GOPAL SINGH)

Adm. Member

  
(B.S. RAIKOTE)

Vice Chairman