

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Order: 22.10.02

RA 38/2001 (OA 51/2000)

Harikesh Meena, Audit Clerk in A.G. Office, Jaipur.

... Applicant

Versus

1. Comptroller & Auditor General of India, Indian Audit & Accounts Department, 10, Bahadurshah Zafar Marg, Intraprastha Estate, New Delhi.
2. Accountant General (Audit-I), AG Office, B.D.Road, Near Statue Circle, Jaipur.

... Respondents

CORAM:

HON'BLE MR.JUSTICE G.L.GUPTA, VICE CHAIRMAN

HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

For the Applicant

... Mr.Vinod Goyal

For the Respondents

... Mr.Bhanwar Bagri

O R D E R

PER MR.A.P.NAGRATH

This Review Application has been filed by the applicant with the prayer that the orders passed by this Tribunal dated 20.9.2001 in OA 51/2000 be recalled and reviewed. The ground taken by the applicant for seeking review is that till the disposal of the OA the applicant was not aware of the marks obtained by him in the three papers. After dismissal of the OA, the applicant has succeeded to get the marks obtained and has come to know that he had passed the examination as per rules and regulations applicable. He had cleared the first and second papers in the fourth chance and in the next chance he also cleared the third paper. These facts could not be brought to the notice of the Tribunal at the time of final hearing of the case. The applicant's plea is that in the interest of justice the orders of the Tribunal be reviewed as there was no mistake on the part of the applicant. He had tried his best to obtain the marks-sheet from the respondents but the same was never supplied to him.

2. In response to our querry as to the source from where

the applicant claims to have obtained the marks-sheet, the applicant has filed an affidavit, wherein he has submitted that the dealing clerk of the concerned administration section had allowed him to note the marks obtained by him in the departmental examination. We have perused this affidavit and we find in para-2 the applicant has made a statement that alongwith the OA filed by him another OA (No.50/2000) was filed by one Shri Suresh Verma. The said OA was heard on 17.9.2000 for final disposal at the stage of admission. Applicant's OA was taken up on the next date i.e. 18.9.2000. According to the applicant, the Tribunal was of the opinion that similar arguments had been advanced by both the counsel in the similar OA on the previous day, as such there was no necessity to argue the matter on the same ground. He further goes on to say that without hearing this application the judgement was reserved on 18.9.2000.

3. From what we have noted in the above paragraph, we find the conduct of the applicant highly questionable. He has obviously violated the departmental discipline if we accept his own action of contacting the dealing clerk to have a look at the marks obtained by him. This, in our view, is a serious breach of trust imposed on an employee by the administration. For this, the said dealing clerk and the applicant are equally responsible. We leave it to the concerned authorities of the department to take whatsoever appropriate action they consider necessary for such conduct. We also take strong exception to the statement made by the applicant that the Tribunal did not hear the arguments in the matter and reserved the judgement. Obviously, he has been ill-advised by his counsel in his anxiety to make a ground for review. We strongly deprecate this attempt on the part of the applicant and also convey our concern to the learned counsel for permitting such a statement to be made in the form of affidavit. It is apparently an after-thought and as we have said, totally misconceived, for the reason that in the grounds taken in the RA there is no such mention and there is a clear admission of the fact that the applicant could not bring to the notice of the Tribunal about the marks which he obtained and his case got decided only on the basis

whether relaxation could be given in the evaluation to the applicant for his belonging to ST community. The very ground taken by him in the RA contradicts the statement made by him in the affidavit that the argument in his OA had not been heard. We have also perused the judgement in this case and para-4 clearly records that the parties had been heard. In fact, it goes on to mention that the sole ground on which the learned counsel for the applicant defended the applicant's case was that being a ST candidate the applicant was entitled to be assessed by relaxed standard. It is unbecoming of the applicant now to say that he was not heard and unfortunately the learned counsel on his behalf chose to support such a specious plea. Learned counsel Shri Vinod Goyal has tried to make amends during preliminary hearing of this RA by submitting that he or the applicant did not mean to even remotely show any disrespect to the Hon'ble Tribunal. This plea of the learned counsel is neither here nor there. Having made a statement in the form of an affidavit, the applicant has already transgressed the limits of ethical conduct. However, in view of the remorse now expressed by the learned counsel, we leave the matter at that. During this preliminary hearing the learned counsel for the respondents Shri Bhanwar Bagri categorically denied that the applicant had obtained qualifying marks as claimed by him.

4. The applicant has totally failed to make out any case of review. He has not brought to our notice any error apparent on the face of the record. What the applicant is seeking is rehearing of the whole matter. Such a prayer is beyond the scope of review. We reject this RA as totally meritless. We would like the applicant and the learned counsel on his behalf to take note of our observations in this order and to desist from irresponsible averments.


(A.P. NAGRATH)
MEMBER (A)


(G.L. GUPTA)
VICE CHAIRMAN