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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/00982/2014

Date of Decision : 21.10.2015
Reserved on: 19.10.2015

**CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER
HON'BLE DR. BRAHM A. AGRAWAL, JUDICIAL MEMBER**

Vijay Kumar, s/o Sh. Suresh Kumar, r/o VPO Kilazafargarh, Tehsil Julana, District Jind (Haryana).

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Applicant

Versus

1. Staff Selection Commission (NWR) through its Secretary, Kendriya Sadan, Block-3, Ground Floor, Sector 9, Chandigarh-160017.
2. Secretary, Department of Personnel and Training, North Block, New Delhi-110001.

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Respondents

Present: Mr. Sandeep Lather, counsel for the applicant
Mr. D.R.Sharma, counsel for the respondents

ORDER
HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

"8 (i) For quashing the result dated 22.04.2014 (Annexure A-5) and revised result dated 30.05.2014 (Annexure A-10) declared by the defendant no.1.

ii) The result dated 22.04.2014 and revised result dated 30.05.2014 declared by defendant no.1 may be corrected and the applicant may be appointed as Constable (GD) in ITBPF, BSF, CISF, CRPF and SSB and Rifleman (GD) in Assam Rifles."

2. Averment has been made in the OA that the applicant applied online on 20.12.2012 against the SC category for the post of Constable (GD) in the recruitment process conducted by the SSC as per notification dated 15.12.2012.

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He cleared the physical efficiency test and passed in the written examination. He was also found fit in the medical examination and was therefore hopeful about his selection for the post of Constable (GD). On 22.04.2014, the result of the selection was declared but the applicant's name did not figure in the list of successful candidates. Respondent no.1 also uploaded the list of marks of male candidates on 29.04.2014 (Annexure A-7). The name of the applicant was mentioned in the list at sl.no.1476 against the roll no.1601006061. It showed that the applicant secured 77 marks and the cut off mark for CRPF and ITBP was 77. The applicant then moved an application dated 19.05.2014 and sought information under the RTI Act, 2005, which was supplied to him on 03.06.2014 (Annexure A-8). This again showed that the applicant had secured 77 marks out of 100 against SC category and also revealed the cut off marks as BSF-84, CISF-86, CRPF-77, SSB-82, ITBP-77 and Assam Rifle-81. Respondent no.1 also supplied the information under the Right to Information Act, 2005, vide letter dated 01.07.2014 to the applicant (Annexure A-9). The letter dated 01.07.2014 would reveal that defendant no.1 had awarded zero marks to the applicant for not correctly coding the Name, Roll Number, Ticket Number, Test Form Number and left thumb impression in the relevant places in the OMR Answer Sheet. Defendant no.1 also supplied the OMR Answer Sheet of the applicant which revealed that the OMR answer sheet was correctly coded by the applicant as per the instructions on the OMR answer sheet. Defendant no.1 had not clearly mentioned which incorrect coding in the OMR sheet had been done by the applicant. Hence this OA.

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3. In the short reply filed on behalf of the respondents, it has been stated that the applicant secured 77 marks in written examination. The cut off marks in BSF, CISF and SSB was 84 marks, 86 marks and 82 marks respectively, whereas cut off marks in CRPF and ITBP for the candidates belonging to SC and resident of Haryana was 77. The applicant was not considered for selection as his case is 'Tie' case. As per the Notice of Examination, method to resolve 'Tie' case is given at para 11, "RESOLUTION OF TIE CASES" which is reproduced as under:-

- 'a). The tie is resolved by the Commission by referring to the total marks in the written examination i.e. a candidate having more marks in the written examination gets preference over the candidate (s) with less marks.
- b) If the tie still persists then the marks in Part 'A' are referred to i.e. a candidate having more marks in Part 'A' is given preference.
- c) If the tie still persists, the candidate older in age gets preference.
- d) If the tie still persists, it is finally resolved by referring to the alphabetical order of names, i.e. a candidate whose name begins with the alphabet which comes first in the alphabetical order gets preference.

The applicant secured total 77 marks in written exam but his marks in Part 'A' are 21 only. The last selected candidate belonging to SC category and resident of Haryana got 23 marks in Part 'A'. Hence, the applicant was not included in the list of finally selected candidates as he could not secure minimum cut off marks in Part 'A' required in 'Tie' case as per notice of examination, for selection. Write up of the result containing marks is annexed as Annexure R-1 and the cut off

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marks of the candidate belonging to Haryana State are given at page 10 and 'Tie' criteria is available at page 28 of the write up. The applicant has been informed about the reason of his non-selection vide letter no.2/2/2014/RTI/NWR, dated 03.06.2014 (Annexure A-8) (page 100 of OA). The Commission functions within the ambit of Notice of Examination and it has clearly been mentioned that final selection is made on the basis of merit. All the candidates are treated equally as per the Notice of Examination and the Commission as well as the applicant are bound by the provisions contained in the Notice of Examination.

4. Arguments advanced by the learned counsel for the parties have been heard, when learned counsel relied on information supplied to him under RTI (Annexure A-9) wherein under Item no.6 it was stated that his candidature has been rejected and he was awarded zero marks as per the instructions mentioned in the 1st page of OMR sheet on account of wrongly coding personal particulars i.e. Name, Roll Number, Ticket Number, Test Form Number and left thumb impression. Learned counsel stated that there was a contradiction in the information supplied to him through RTI and the written statement filed on behalf of the respondents, wherein it had been stated that the applicant had got 77 marks and was a 'Tie' case and hence his name did not appear in the merit list of selected candidates. He also referred to interim order dated 06.05.2015 whereby the respondents were directed to file affidavit in this regard to clarify the position but no such affidavit had been filed till date.

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5. Learned counsel for the respondents reiterated the content of the written statement, he stated that there were clear guidelines of the SSC regarding treatment of 'Tie' cases. Although the applicant had secured 77 marks in the written examination, on other points regarding treatment of 'Tie' cases, he could not make it to the merit list. Learned counsel also stated that the information obtained by the applicant as per Annexure A-9 was being misinterpreted by the applicant on the basis of the English translation of the original information that had been supplied in Hindi. He referred to the document in Hindi placed at Annexure A-9 and stated that as per para no.1 of this document only the OMR sheet of the applicant was provided to him as this was the information he had sought through RTI. The item no.6 did not pertain to the applicant at all as he has not sought information on this aspect. Hence it was not necessary to file the affidavit sought vide order dated 06.05.2015.

6. We have given our careful consideration to the matter and perused the copy in Hindi of Annexure A-9 which is at page 103 A of the paper book. It is seen that in this copy only item no.1 has been ticked off and this shows that the information was being provided on this item to the applicant. None of the other items have been ticked off. In the English version of the letter dated 01.07.2014, it is not shown that item no.1 has been ticked off. Moreover, it is admitted as per the material placed on record by the applicant as well as the respondents that the applicant secured 77 marks in the written test. The respondents have stated that the case of the applicant being a 'Tie' case was decided as per para 11 of

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guidelines for resolution of 'Tie' cases. Since other persons who have got 77 marks in the written exam had higher marks in Part 'A' than the applicant, the applicant was eliminated and his name could not figure in the list of selected candidates. This aspect of the counter reply of the respondents has not been rebutted by the applicant either in the rejoinder or in the course of oral arguments.

7. Hence there being no merit in this OA, the same is rejected. No costs.

**(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.**

**(DR. BRAHM A. AGRAWAL)
JUDICIAL MEMBER**

Place: Chandigarh

Dated: 21.10.2015

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