

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.699/2018

This the 15th day of February, 2018

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K. N. Shrivastava, Member (A)**

Prateek Agrawal S/o J. P. Gupta,
R/o Hasahai Ka Katla,
Old Grain Mandi Road City,
Sawai Madhopur,
Rajasthan-322021.

... Applicant

(By Mr. Akur Chhibber, Advocate)

Versus

Staff Selection Commission
through its Chairman,
Block No.12, CGO Complex,
Lodhi Road, New Delhi.

... Respondent

(By Mr. C. Bheemanna, Advocate)

O R D E R

Justice Permod Kohli, Chairman :

The respondent Commission issued recruitment examination notice for the Combined Graduate Level Examination, 2017 on 16.05.2017. The candidates were to appear in Tier-I examination that was of qualifying nature. The short-listed candidates were to appear in the Tier-II examination. The Tier-I examination was objective type questions with 200 marks. For each wrong answer, there was negative marking of 0.50 marks.

2. The applicant applied in response to the aforesaid recruitment notice and appeared in the Tier-I examination on 08.08.2017. The result of the Tier-I examination was declared on 31.10.2017. The answer-key of the question paper for Tier-I examination was published, which was later revised on 22.11.2017. The applicant secured 125 marks. It is stated that on the basis of the answer-key published by the respondent, the applicant calculated his marks, and according to the correct answers he would have secured 125.5 marks instead of 125. It is further mentioned that on consideration of the answer-key, it was also found that the answer to the question number 186 has been shown as option 'C', whereas the correct answer to the above question is option 'D'. To substantiate his contention, the applicant has referred to para 131, rule V of the reference book, "Objective General English" written by S. P. Bakshi. The cut-off marks in the Tier-I examination as notified by the respondent are 126.5. The applicant accordingly made some representation to the respondent claiming re-evaluation of question number 186, and also for re-calculation of his marks. Receiving no response, present OA has been filed seeking following reliefs:

"(i) Quash the Corrected/Revised Answer Key for Question No.186 of the Question Paper, for the Combined Graduate Level Examination, 2017 used by SSC as incorrect and consequently allot marks to the applicant for the same and if the applicant is within the cut-off then allow him to appear in Tier-II examination;

- (ii) Direct the respondent to constitute an Independent Expert Body, other than SSC officials, to examine the Answer Key for Question Paper for Combined Graduate Level Examination, 2017 and submit a report as to whether the impugned Revised Answer Key used by SSC for all impugned questions is incorrect or not.
- (iii) Direct the respondent to re-calculate the marks obtained by the Applicant as per his Answer Script and grant him extra marks if there is any error in totaling of the marks."

3. The respondent has filed counter-affidavit. It is stated that the concerned section of the respondent after verifying the answer sheet of the applicant as an unreserved candidate of CGLE 2017 Tier-I, has confirmed that the applicant has secured 125 marks in Tier-I examination. His result has been verified from SIFY and it is found that his result is correct. It is also mentioned that the question bank section of the Commission has also confirmed that in the subject code 104 (General English) for question number 186, based on the review by the subject experts twice, the finalized answer-key by the Commission is found to be correct and there is no change in the answer. Option 'C' of question number 186 is said to be correct answer.

4. The prayer made in the OA is two-fold – one, for re-checking of the marks awarded; and second, for re-evaluation of the question number 186. Insofar as the first prayer for re-checking is concerned, the applicant has himself calculated his marks to be 125.5,

whereas in the counter-affidavit it is specifically mentioned that upon checking the answer-book of the applicant, the marks have been confirmed as 125. Thus, re-checking part of the relief claimed has been done by the respondents and the marks awarded are found to be correct. Insofar as the second issue of re-evaluation of answer to the question number 186 is concerned, again, the reply clearly mentions that based on review by the subject experts twice, option 'C' in the answer-key is correct.

5. The issue raised in the present OA is no more *res integra*. In *Ran Vijay Singh & others v State of U.P. & others* [(2018) 2 SCC 357], the Hon'ble Supreme Court, considering a plethora of judgments on the subject of re-evaluation, culled out the following ratio:

"30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are: (i) If a statute, Rule or Regulation governing an examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit it; (ii) If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any "inferential process of reasoning or by a process of rationalisation" and only in rare or exceptional cases that a material error has been committed; (iii) The court should not at all re-evaluate or scrutinise the answer sheets of a candidate—it has no expertise in the matter and academic matters are best left to academics; (iv) The

court should presume the correctness of the key answers and proceed on that assumption; and (v) In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.”

Though the Hon’ble Supreme Court issued certain directions in the peculiar facts and circumstances of the said case, however, the above ratio of the judgment is a binding precedent. In view of the ratio of the aforesaid judgment, it is not for this Tribunal to sit as a court of appeal over the decision of the selection body or the experts, and to re-examine the validity of the answer-key to the question number 186 and to arrive at its own conclusion. This is particularly because the experts have examined the issue twice and approved the answer-key.

6. In this view of the matter, no relief can be granted to the applicant. OA is dismissed.

(K. N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

/as/