

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.851/2015

Monday, this the 12th day of October 2015

**Hon'ble Mr. A.K. Bhardwaj, Member (J)
Hon'ble Dr. B. K. Sinha, Member (A)**

Umesh Kumar Sharma
s/o Mr. Dharamvir Sharma
r/o H.No.121, Gali No.3
Shakti Vihar, Meethapur, Badarpur
New Delhi

Aged about 27 years
(Constable in Delhi Police)

(Mr. Ajesh Luthra, Advocate)

..Applicant

Versus

1. Commissioner of Police
PHQ, MSO Building
IP Estate, New Delhi
2. The Joint Commissioner of Police
(Headquarters)
PHQ, MSO Building
IP Estate, New Delhi
3. The Deputy Commissioner of Police
(Establishment)
PHQ, MSO Building
IP Estate, New Delhi

..Respondents

(Mrs. Rashmi Chopra, Advocate)

O R D E R (ORAL)

Mr. A.K. Bhardwaj:

The short issue arises to be determined in the present Original Application is “whether the applicant is correctly assessed for his promotion to the post of Head Constable (Executive) in Delhi Police or not”. The prayer made in the Original Application reads thus:-

“(a) declare that the whole action of the respondents leading to non-selection of applicant towards Promotion List ‘A’ test is illegal and

(b) direct the respondents to revise the result of promotion list ‘A’ test by awarding marks to the applicant for his correct answers, after rectifying the answer keys and

(c) consequently, further consider the promote the applicants to the posts of Head Constable (Executive), with all consequential benefits.

(d) award costs of the proceedings and

(e) pass any other order/direction which this Hon’ble Tribunal deem fit and proper in favour of the applicants and against the respondents in the facts and circumstances of the case.”

2. Mr. Ajesh Luthra, learned counsel for respondents contended that when admittedly the three questions in test booklet were skewed and answer key thereto was irregular, as a result of which the answers were reassessed and such candidates, who had given correct answers to questions, were awarded the marks for them, the applicant should also be given the same treatment.

3. On the other hand, Mrs. Rashmi Chopra, learned counsel for respondents submitted that the Review Committee assessed the candidature of the applicant afresh and his OMR answer sheet was also rechecked. According to her, when on rechecking the answers given by the applicant to question Nos.61 and 77 were found correct, it was also revealed that his answer to question No.116 was incorrect but had been judged as correct, thus, in all, on rechecking the total marks of the applicant could increase by 1, i.e., addition of 2 marks and subtraction of 1 mark.

4. Confronted with the plea, Mr. Luthra, learned counsel submitted that such could be the case in respect of other candidates also. According to him

there might be other candidates, who were elder in age than the applicant and could have given wrong answer to any of the 3 questions, which could be judged as correct, as the answer key was skewed.

5. In view of the controversy involved in the matter, the Original Application is disposed of with direction to the respondents to recheck all such questions, the answer key to which was skewed in respect of all such candidates, who had got 105 marks and if in the process there is any change in the merit list, to act on the basis of the same. Needful may be done within thirty days from the date of receipt of a copy of this Order. No costs.

(Dr. B.K. Sinha)
Member (A)

October 12, 2015
/sunil/

(A.K. Bhardwaj)
Member (J)