

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

OA-970/2017

Reserved on : 30.03.2017.

Pronounced on : 05.04.2017.

Hon'ble Mr. Shekhar Agarwal, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)

Sh. Pankaj Dhaka,
Aged 29 years,
S/o Ex-H/CAPT. Prahlad Singh,
R/o Hostel No.3, Room No. 24,
ICAR-Indian Veterinary Research-
Institute Izatnagar, Bareilly,
Uttar Pradesh-243122.

.... Applicant

(through Ms. Bindu K. Nair & Ms. Smitharani M.R., Advocate)

Versus

1. Indian Council of Agricultural Research
Through Director General,
Krishi Anusandhan Bhavan-I,
Pusa, New Delhi-110012.
2. Agricultural Scientists Recruitment Board
Through Chairman,
Krishi Anusandhan Bhavan-I,
Pusa, New Delhi-110012.
3. Dr. Arun Prince Milton,
PHD Scholar, Divn. Of Veterinary-
Public Health, ICAR-IVRI,
Izatnagar, Bareilly,
Uttar Pradesh.
4. Dr. Suman Kumar,
Research Associate, Divn. Of Veterinary-
Public Health, ICAR-IVRI,
Izatnagar, Bareilly,
Uttar Pradesh.

..... Respondents

O R D E R

Mr. Shekhar Agarwal, Member (A)

This O.A. has been filed seeking the following relief:-

- “(i) to call for records in this case and issue a writ of Mandamus or any other appropriate Writ or order or direction setting aside the result published in the Agricultural Research Service Examinations of 2015 for the post of ‘Scientist in Veterinary Public Health (Subject Code:32)’, AND
- (ii) issue a Writ, order, or direction in the nature of Mandamus directing the revaluation of the Applicant's mark sheet, AND,
- (iii) Pass such other and further orders and/or directions in favour of the Applicant and against the Respondent as this Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case.”

2. Brief facts of the case are that the applicant appeared in the Agricultural Research Service Examination, 2015 for the post of Scientist in Veterinary Public Health (Subject Code-32). He was not been selected as he secured a total of 191 marks out of 300 marks (page-75) as compared to 224.5 marks secured by respondent No.3 and 220.5 marks secured by respondent No.4, who have been selected. His grievance is that there are several mistakes in evaluation of the answer sheets. On his representation, the respondents had permitted him to inspect his answer sheet. He found that in certain objective type questions despite giving correct answers he has not been given any marks. By this, he lost 16 marks.

Further, in the descriptive type questions also he has alleged that the examiner has given him less marks despite the fact that he had given complete and correct answers to all the questions. He has submitted a representation to Chairman, ASRB on 31.01.2017 by email. However, the respondents have not taken any action on the same.

3. We have considered the submissions of the applicant and also considered his written submissions. The applicant's contention is that his mark sheet has not been impartially and fairly evaluated. He has relied on the judgment of Apex Court in the case of **Tejas Constructions and Infrastructure Pvt. Ltd. Vs. Municipal Council Sendhwa and Anr.**, (2012) 6 SCC 464 to say that Article-14 requires fairness on the part of the State. However, in this case the State appears to have acted whimsically and with ulterior motive. He has also alleged that his fundamental rights have been violated.

3.1 Even if his assertion that his objective questions have been marked wrongly is accepted, at the most, the applicant shall gain by 16 marks. Even then he would not succeed as the difference of marks between him and selected candidates is much more than 16.

3.2 As far as descriptive questions are concerned, it is not possible for this Tribunal in judicial review to sit in judgment over the marks awarded to him by the examiner and come to the conclusion that

the applicant has been given lesser marks than what he deserved. This Tribunal does not have expertise to re-evaluate questions evaluated by subject matter specialist.

4. In view of the aforesaid, we are of the opinion that no useful purpose would be served by admitting this O.A. and issuing notice to the respondents.

5. We, therefore, dispose of this O.A. at the admission stage itself without issuing notice to the respondents and without going into the merits of the case with a direction to them to consider the pending representation of the applicant and pass appropriate orders on the same within a period of 08 weeks from the date of receipt of a certified copy of this order. The respondents shall communicate their decision to the applicant by means of a reasoned and speaking order. No costs.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

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