

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

**OA-1835/2017**

**New Delhi this the 24<sup>th</sup> day of May, 2017.**

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

Mr. Anoop Kumar Yadav, 27 years  
Flat No. 35/III,  
(Group(B)(Post) Assistant Provident  
Fund Commissioner,  
Central Excise & Customs Colony,  
Mangal Panday Nagar,  
Merrut, UP-250005.

.... Applicant

(through Sh. Ankit Roopanwal, Advocate)

Versus

1. Union Public Service Commission through  
Its Chairman,  
Dholpur House,  
Shahjahan Road,  
New Delhi-110069.
2. The Union of India through  
The Secretary, Ministry of Law & Justice  
(Department of Legal Affairs),  
Shastri Bhawan, New Delhi-1.
3. Nitesh Kumar,  
SKE 807, Shipra Krishna Vista,  
Indirapuram, Ghaziabad-101010.
4. Shivanshu Rajput,  
Plot No. 28, Shriramkripa Estate,  
Mainauatimaazadnagar Kanpur-208002.
5. Praveen Kumar,  
13/23/50-D, Dr. Prem Prakash Srivastava,  
Ramanand Nagar, Near Bajrang,  
Chauaraha, Allahpur,  
Allahabad, UP-211006.

6. Manoj Prabhu P  
64/1, Sadayar ST 2, Gounder Colony,  
Velur Road, Tiruchengode, Namakkal,  
Tamilnadu-637211.
7. Abhilash Kumar,  
1400, I Floor, I 'A' Main Road,  
Vijayanagar,  
Bangalore-560040.
8. Shubham Ashok Kashyap,  
13, Adarsh Nagar, Parola,  
Ditt-Jalgaon, Maharashtra.
9. Prem Prakash,  
S/o Vishwanath Singh,  
Near Raju Shop,  
New Saket Nagar, Hindo Ranchi,  
Jharkhand-834002.
10. Saravanakumar R,  
C/o Lt. Col. TCB Nair, 1/1516, Shilpa,  
Near Indian Express, East Hill Road,  
Calicut, Kerala-673005.
11. Jerin David M,  
AP-712, Ist Floor, H-Block, Ist Street,  
12 Thmainroad, Annanagar,  
Chennai-40.
12. Sidhaarth A,  
A-30, Raagaa Apts, 6<sup>th</sup> Avenue,  
Ashoknagar, Chennai-600083.
13. Satya Prakash 27 No. Civil Lines,  
In front of Dhola Maru Hotel,  
Civil Lines, Bikaner.
14. Aniket Anil Amedkar,  
At – Post : PALI, Ganesh Nagar,  
Tah Sudhagad,  
District-Rajgad, Pin-410205.
15. Anil Kumar,  
400-A, Gali No. 7, Jawahar Nagar,

Hisar, Haryana-125001.

16. Vinod Kumar,  
S/o Ashok Kumar Shah Opposite to SBI,  
Bounsi Station Road, Post-Bounsi,  
Banka, Bihar-813104. .... Respondents

### **ORDER**

**Mr. Shekhar Agarwal, Member (A)**

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

- “(A) To direct the Respondent No 1 to reevaluate the answer sheet of the Petitioner according to the answer provided by Economic survey 2015-16.
- (B) To direct the Respondent No. 1 to appoint the Petitioner to the Post of Assistant Provident Fund Commissioner as per the correct evaluation of the answer.
- (C) To direct the Respondent No.1 and 2 to constitute such expert committee in order to ascertain the correctness of the disputed question and its correct answer.
- (D) To pass such other order as this Hon’ble court may deem fit and proper in the interest of justice.”

2. Briefly the facts of the case are that the applicant participated in an examination conducted by UPSC for the post of Assistant Commissioner, Employees Provident Fund Organisation in the Ministry of Labour and Employment advertised vide Advertisement No. 52/2015. According to him, he obtained 246.09 marks in the OBC category and was put in the reserve panel. Being surprised by his result, he rechecked his answers and found that the respondents have erred in evaluating Question No. 49 of Set-A. While the correct answer based on Economic Survey 2015-16 was Option-“D”, the respondent No.1 has taken Option-“A” to be correct answer. The

applicant submits that in case this question is re-evaluated, his name would figure in the list of selected candidates. He submitted a representation to the respondents on 12.08.2016. However, without replying to his representation, the respondents have gone ahead with issuing appointment letters to the selected candidates. The selected candidates have since been appointed and are undergoing their probation period.

3. We have heard learned counsel for the applicant. It was not disputed by him that the respondent UPSC had first published a model answer key and invited objections to the same. Thereafter, final answer key was also published. In our opinion, all the candidates have been provided one opportunity to point out any discrepancy that may have existed in the model answer key. After taking into account all the objections received, the respondents have evaluated the answer sheets of the candidates based on the final answer key. If further opportunity were to be allowed to candidates to raise objections on the evaluation process, no selection can ever be finalised, as such process will go on endlessly. Moreover, this Tribunal does not have the expertise to decide which option would constitute right answer for the question about which dispute has been raised.

4. We also find that the applicant has approached this Tribunal after having participated in the selection process and taking his chances in the same. He has approached us after the selection has been finalised and selected candidates appointed. Hon'ble Supreme Court in the case of **Madras Institute of Development Studies Vs. K. Sivasubramaniyan**, (2016) 1 SCC 454 has laid down that a candidate, who has participated in the selection process, cannot be permitted to question the same after being declared unsuccessful. In this judgment, several judgments of the Apex Court on the same issue have also been noted.

5. In view of the aforesaid, we do not find any merit in this O.A. and dismiss the same in limine.

**(Raj Vir Sharma)**  
**Member (J)**

**(Shekhar Agarwal)**  
**Member (A)**

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