

Central Administrative Tribunal Principal Bench

OA No. 3899/2013

New Delhi this the 06th day of October, 2015

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

Manoj Kumar Gupta,
S/o Shri Munna Lal Gupta,
R/o F-14, Ganga Vihar,
Shahdara, Delhi-110042
Working as Sr. Maintainer,
In DMRC Empl. No. 5826

...Applicant

(Applicant in person)

VERSUS

1. Delhi Metro Rail Corporation Limited,
Through ED/HR, DMRC,
Metro Bhawan, Barakhambha,
New Delhi-110001
2. Shri S.K. Sinha,
GM/HR, DMRC,
Metro Bhawan, Barakhambha,
New Delhi-110001
3. Shri Subodh Pandey,
JGM/Electrical, DMRC,
Metro Bhawan, Barakhambha,
New Delhi-110001
4. Shri Rakesh Bosh,
DGM/Operation, DMRC,
Metro Bhawan, Barakhambha,
New Delhi-110001
5. Sh. N.Lal,
D.CPO/DMRC,
Metro Bhawan, Barakhambha,
New Delhi-110001

(By Advocate: Shri VSR Krishna)

ORDER (Oral)

By Mr. A.K. Bhardwaj, Member (J):

The applicant herein is an employee of Delhi Metro Rail Corporation (DMRC, for short). With a view to provide an opportunity for promotion to the departmental candidates, the DMRC held a Limited Departmental Selection Examination. The selection comprised the subjects viz. (i) Written Examination (ii) Interview (iii) Service Record (ACRs/APARs) and (iv) Medical Examination. The pattern of the Examination as mentioned in the advertisement read thus:-

Component Selection	Maximum Marks	Qualifying Marks for Gen. Candidates for unreserved posts	Qualifying Marks for SC/ST candidates for reserves posts
(a) Written Examination - It may consists of subjective type (75%) and objective type (25%) test of two hours duration	60	36	30
(b) Interview	25	13	09
(c) Service Record (ACRs/APARs)	15	11	11
TOTAL	100	60	50
(d) Pscho Test (in case of the selection for the post of SC/TO)		Qualifying	Qualifying

2. The applicant participated in the selection and remained unsuccessful, thus he filed the present Original Application praying therein:-

- “a. Direct the respondents to produce all the records relating to the case including ACR Records of applicant, answer book of the applicant and other successful candidate, marks showing chart of interview of each and every successful candidate along with applicant and verify the irregularities committed by the Respondent in evaluation of the answer book and interview; and
- b. Direct the respondents to produce raw and moderated marks of applicant and all other candidate in the Examination of Limited Departmental Selection, 2012 to verify justness of moderation system;
- c. To strike down the system of moderation/scalling applied by the DMRC after asking DMRC to explain the system.
- d. Direct the Respondent to bring uniformity on the system of awarding marks in interview and ACR grading;
- e. Permit the applicant to carry the inspection of the answer books in the answer books in the Court.
- f. Direct the respondent to reexamine and reevaluate the answer books of the Applicant where the irregularities are found to be existing in the evaluation process of LDS Exams., 2013.
- g. Direct the Respondent to declare the Applicant pass in the LDS Exam held in June, 2013 for the post of JE/Electrical, if after revaluation and proper valuation he gets more marks than the mark achieved by the last candidate in the result who was called for interview and consider him for appointment; and
- h. To pass such other/orders as this Hon'ble Tribunal may deem just and proper in the facts and circumstances of the case.”

3. According to the applicant, who is present in person, during the interview, no question was put to him and when he asked for his answer-sheet, the same was not made available to him. The further grievance raised by him is that the Selection Committee has discriminated the candidates while awarding the marks and their records were not assessed in a fair manner. He has also alleged *malafide* against the respondents. He has further placed some cogent suggestions for improvement in the examination system. Principally, he would like the interview to be done away with. He would also like that the subjective type questions being given in the examination should be replaced by the objective type and the tests to be administered on line on a randomly selected question paper.

4. In the counter reply filed on behalf of the respondents, it has been explained that the conduct of LDS was held in the most confidential and transparent manner as firstly, a minimum of two deputy level officers were engaged to set question papers in two sets each for the LDS and the identity of officers was kept confidential. The selection of question paper was done right in the morning of the date when LDS was scheduled by the senior-most officer in-charge in the presence of the two paper setters and the

selection question paper was then sent for printing under the supervision of the Examination Centre In-charge and other HR officer, just 15 minutes before the start of the examination. The question papers were counted, kept in sealed envelopes and sent to respective examination rooms. After completion of examination, all the answer sheets were shuffled and an unique code was assigned to every answer sheet. The front page of the answer sheets, containing the personal details of the employee like his name, employee no. etc. was then detached and only the code number remains that was matched later on with the counterfoils. Such process explained in the counter reply of the respondents read thus:-

“The conduct of LDS is held in the most confidential and transparent manner. Firstly, a minimum of two deputy level officers are engaged to set question papers in (02) two sets each for the LDS. The identity of officers is kept confidential. The selection of question paper is done right at the morning of the LDS at the examination centre, by the Senior most officer of HR in the presence of the two paper setters. The selected question paper was then sent for printing under the supervision of the Examination Centre Incharge and other HR officer, just 15 minutes before the start of the examination. Question papers are counted, kept in sealed envelopes and sent to respective examination rooms.

After the completion of examination, all the answer sheets are shuffled and an unique code is assigned to every answer sheet. The front page of the answer sheets, containing the personal details of the employee like his name, employee no. etc. is then detached and only the code number remains that is matched later on with the counterfoils.

The counterfoils are then collected and kept in safe custody with the Deputy level officer of the HR. The identity of the examinees is kept hidden from the examiners. The summary of marks as allotted by the examiner are sent to HR for preparing the final result of the Written Test. Further, the Interview Board is consisted of three senior most Dy. HoDs consisting of the concerned branch, sister branch and HR. They individually allot marks to each candidate and the mean average of marks are awarded to the candidate.”

5. It has been further explained in the counter reply that the applicant obtained 40.05 marks in the written test and the marks for interview were awarded by the Selection Board instantly.
6. We heard the parties and perused the record.
7. When the applicant has alleged *malafide*, no material has been brought on record to substantiate the allegation. The bald allegation sans supporting material cannot be accepted to uphold the plea of malafide. Furthermore, in lengthy prayer clause, the applicant has emphasized on re-evaluation of his answer-sheets and supply of copy of answer-sheets to him. To buttress such plea, the applicant has not brought out any rule or procedure in vogue in DMRC providing for re-evaluation of the answer-sheets. As has been ruled by the Hon’ble Supreme Court in **Himachal Pradesh Public Service Commission vs. Mukesh Thakur & Anr**, AIR 2010 SC 2620, in the absence of there being any rule, it is not open to the court to issue directions for re-evaluation of the answer-sheets. Further as has been

ruled by the Hon'ble Supreme Court in **Dalpat Abasaheb Solunke & Ors. vs. B.S. Mahajan & Ors.**, AIR 1990 SC 4324, it is not for the courts or the Tribunal to assume the role of the Selection Committee.

8. In the circumstances, relief sought in the OA is nixed. The respondents are directed to consider the improvement in the selection process keeping in view the aforesaid argument put forth by the applicant, , i.e., to do away with the interview, substituting the subjective type of examination by objective type and explore the possibility of conducting on line test. With such observations, the OA is disposed of. No costs.

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

(A.K. Bhardwaj)
Member (J)

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