

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

OA No.967/2013

Reserved On:20.09.2018

Pronounced On:27.09.2018

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. A.K. Bishnoi, Member (A)

Kiran Gupta,
W/o. Shri Amit Bansal,
205, Old Housing Board Colony,
Near Shannai Banquet Hall,
Bhiwani, Haryana.

....Applicant

(By Advocate : Mr. Rakesh Noutiyal)

Versus

1. The Union of India,
Represented by:
The Director General, Department of Posts,
(Departmental Examination Section),
Dak Bhawan, Sansad Marg,
New Delhi – 110 116.

2. The Chief Post Master General,
Haryana Circle,
Ambala 133 001.

3. The Superintendent of Post Offices,
Bhiwani Division, Head Post Office,
Bhiwani, Haryana.

...Respondents

(By Advocate : Sh. Rajinder Nischal)

ORDER

By Hon'ble Mr. V. Ajay Kumar, Member (J)

The instant OA has been filed seeking the following reliefs:-

“(i) To call for the records relating to Annexure-A to Annexure-M and to declare that the applicant is entitled to be awarded marks in Question No.1(b), Question No.1(c), Question No.3 in Annexure-E.

- (ii) To direct the respondent No.1 to re-evaluate the answer paper in Paper-1 English and award the correct marks to the applicant and to revise the select list, include the applicant and to make promotions on the basis of such revised list.
- (iii) To declare Rule 15 of Appendix 27 of the P&T Manual, Volume IV as unconstitutional, ultra vires, unreasonable and void.
- (iv) To issue appropriate direction or order to revise the select list and appoint the applicant also as Inspector of Posts immediately on the basis of marks on revaluation and to grant her all consequential benefits including arrears of pay and allowances with effect from the date of entitlement.
- (v) To allow the Original Application with costs to the applicant and
- (vi) To issue such other appropriate orders and directions this Hon'ble Tribunal may deem fit, just and proper in the circumstances of the case".

2. The applicant, a Postal Assistant, participated in the Departmental Examination conducted for selection to the post of Inspectors of Posts for the year 2008 for 5 posts in the Haryana Circle. The respondent No.1 declared the results of the said Examination on 18.09.2009 and the applicant was declared unsuccessful as he had secured only 39 marks instead of 40 marks in Paper-I of the said Examination. The request of the applicant seeking revaluation of his Paper-I of the said Examination was not acceded to by the respondents vide the Annexure-K letter dated 06.07.2011, which was issued under the provisions of the RTI Act, 2005, wherein it was stated that there is no provision for revaluation of answer papers as per Rule 15 of Postal Manual. Hence the OA.

3. Heard Shri Rakesh Notiyal, learned counsel for the applicant and Shri Rajinder Nischal, learned counsel for the respondents and perused the pleadings on record.

4. Shri Rakesh Notiyal, learned counsel appearing for the applicant placing reliance on a judgment of the Hon'ble Apex Court in **Himachal Pradesh Public Service Commission Vs. Mukesh Thakur and Another, AIR 1997 SC 3588** submits that the applicant is entitled for revaluation of his Paper-1 of the Examination.

5. Shri Rajinder Nischal, learned counsel appearing for the respondents submits that the decision in Himachal Pradesh Public Service Commission (surpa) is, in fact, supporting the action of the respondents.

6. The Hon'ble Apex Court in Himachal Pradesh Public Service Commission (supra) observed as under:-

“27. Thus, the law on the subject emerges to the effect that in absence of any provision under the Statute or Statutory Rules/Regulations, the Court should not generally direct revaluation.”

7. Since the applicant failed to show any provision or rule for revaluation of the answer sheets of the Departmental Examination and in view of categorical observation made by the Hon'ble Apex Court in Himachal Pradesh Public Service Commission (surpa), we do not find any merit in the OA. Further, it is also not the case of the applicant that he was awarded less marks due to any mala fide

intention of any examiner or respondent authority. It was also not the case of the applicant that any answer written by him was not evaluated at all or there was any mistake in totaling the marks.

8. In the circumstances and for the aforesaid reasons, we do not find any merit in the OA and accordingly the same is dismissed. No costs.

(A.K. Bishnoi)
Member(A)

(V. Ajay Kumar)
Member (J)

RKS