

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.4167/2017

Reserved on: 15.11.2018
Pronounced on: 26.11.2018

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Ms. Aradhana Johri, Member (A)

Sumit Gulia, Aged about 29 years,
Constable in Delhi Police,
PIS No.28105344
S/o Sh. Surender Gulia
R/o House No.162, Pocket E-19,
Sector-3, Rohini, Delhi – 85.

...Applicant

(By Advocate: Shri Anil Singal)

Versus

1. Govt. of NCT of Delhi
Through Commissioner of Police,
PHQ, IP Estate, New Delhi.
2. DCP (Establishment),
PHQ, IP Estate, New Delhi.

...Respondents

(By Advocate: Mrs. Harvinder Oberoi)

O R D E R

By Hon'ble Ms. Aradhana Johri, Member (A):

The applicant was Constable (Ex.) in Delhi Police since 2010. Delhi Police called applications for conducting Promotion List-A Test-2016. In the written test, questions were in English and below the English questions, Hindi translation was provided. Instruction 15 of the Test-Booklet reads as follows:-

“15. In case of variation of any kind in the English and Hindi version of any question(s), the English version will be considered as final.

2. The correct answer to question No.39 was option ‘A’ whereas the applicant answered ‘B’ in the OMR Sheet. Cut off marks were 106 and the applicant secured 106 marks, however, his name was not in the select list since he was junior in age to others who secured 106 marks.

3. It is the contention of the applicant that whereas the English version asked for Section of IPC which defines “common intention”, the Hindi version asked for the Section defining “Samanya Udeshyay”, to which the correct answer is ‘B’. The applicant has also sought for the following reliefs:-

- “A. To quash the Question No.39 (Set B) in Question Paper for Promotion List “A” Test-2016, consequent result and promotions/non-promotion qua the applicant.*
- B. To direct the respondents to constitute an Expert Body to examine whether the Question no.39 (Set B) Promotion List “A” Test-2016 when examined as it is in English and Hindi Version with its Options means only “Variation” in English and Hindi Version or is it more than “Variation” in English and Hindi Version misleading the bonafide candidates who read the question paper in Hindi and submit a factual report.*
- C. To direct the respondents to re-examine the answer script of the applicant in the event it is found that Question No.39 (Set B) Promotion List “A” Test-2016 is liable to be deleted or ignored. Thereafter, grant one mark to the applicant for this question.*
- D. To direct the respondents to prepare the revised merit list for Promotion List “A” Test-2016 after the completion of above-mentioned exercise and bring the name of the applicant on Promotion List ‘A’ & ‘B’*

and consequent promotion to the post of Head Constable (Ex) with all consequential benefits a per revised merit list.

E. To award costs in favour of the applicant and pass any order or orders which this Hon'ble Tribunal may deem just & equitable in the facts & circumstances of the case."

4. The applicant has cited judgment of the Hon'ble Supreme Court in the case of **Kanpur University & Ors. Vs. Samir Gupta & Ors.** [(1983) 4 SCC 309], in which he claimed that the relief was granted on the very same grounds. From perusal of the judgment, it appears that there were no specific instructions as to which version would prevail in case of variation.

5. The respondents have stated that the test was conducted in accordance with Rule 12 (i)(a) of the Delhi Police (Promotion & Confirmation) Rules, 1980. They have submitted that though the applicant secured 106 marks in the written examination but he was found to be junior to the last selected candidate, therefore, he was not selected even after securing equal marks of qualifying candidates. They have relied on Column 15 of the Test Booklet, which states that in case of variation of any kind in the English and Hindi version of any question(s), the English version will be considered as final. Accordingly, representation

given by the applicant was rejected by the competent authority.

6. Heard Sh. Anil Singal, learned counsel for the applicant and Ms. Harvinder Oberoi, learned counsel for the respondents.

7. The issue for adjudication is that if there is a variation in English and Hindi version of the questions then which version would prevail.

8. The instruction given in Column-15 of the Test Booklet itself is unambiguous which clearly provides that *“in case of variation of any kind in the English and Hindi version of any question(s), the English version will be considered as final”*. When specifically it has been provided that in case of any variation of the question, the English version will be considered as final then any change in interpretation of these instructions would be changing the rules of the game midway, which would be against the principles of natural justice as it would impact other candidates as well.

9. This clearly settles the issue that the applicant should have taken the option of the English version as

per instructions contained in the Test Booklet when answering the questions correctly, which he did not. Further, the applicant was not new to the system, having served as Constable for several years, so he should have been familiar with the system. Therefore, there is no need for re-examination of the result and any change in the scoring.

10. The OA is dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(V.Ajay Kumar)
Member (J)

/Ahuja/