

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

MA No.3354/2018
O.A No.2487/2018

Reserved on: 20.08.2018

Pronounced on: 28.08.2018

**Hon'ble Mr. K.N. Shrivastava, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)**

Ajeet Singh (Aged 43 years),
DSSSB Roll No.86002944
S/o Sh. Jaswant Singh,
R/o 77/30, Gali No.1,
Malviya Nagar, Sonipat-131001.
(Haryana)

(By Advocate: Ms. Aishwarya Dobhal)

-Applicant

Versus

Govt. of NCT of Delhi & Ors. through

1. Delhi Subordinate Services Selection Board,
Through its Chairman,
FC-18, Institutional Area,
Karkardooma,
Delhi.
2. Govt. of NCT of Delhi through
Its Chief Secretary,
New Secretariat Building,
Near ITO,
New Delhi.
3. Delhi Jal Board,
Through the CEO, Varunalya Ph-II,
Jhandwalan, Karol Bagh,
New Delhi.

ORDER

By Hon'ble K.N. Shrivastava, Member (A)

This Original Application (OA) has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:

“8.1 To quash and set aside the finalized answer keys issued by the Respondent No.1 vide notice dated 22.06.18 to the extent in respect of Q. No.44, 77 & 84 of question booklet series no. “B” for the Tier-II examination held on 03.06.2018 for the post code no.67/12.

8.2 To examine the issue in question on merits and to pass appropriate orders accordingly for correction of answer key of the respective question.

8.3 To pass appropriate directions to Respondent No.1 for rectifying the answer key of the aforementioned three no. of questions on basis of the logical grounds & supported documents submitted by the applicant through e-challenge module whose copies are also annexed with the present application and to refund the fee of Rs.3,000/- deposited by the applicant for challenging aforesaid three answer keys.

8.4 To direct Respondent no.1 to either come up with logical basis before the Hon'ble Tribunal in support of the rejection of each challenge or to accept the challenges of applicant made therein in respect of Q. No.84, 77 and 44 as aforementioned and to make rectification accordingly in the respective answer key.”

2. The factual matrix of the case, as noticed from the records, is as under:

2.1 The Delhi Subordinate Services Selection Board (DSSSB), respondent no.1 vide Annexure A-2 advertisement no.02/2012 invited applications for various posts, including the post of Administrative Officer/Zonal Revenue Officer in Delhi Jal Board, respondent no.3, bearing Post Code no.67/12. The applicant

applied for the said post. The examination comprised of two parts, namely Tier-I and Tier-II. Tier-I examination was of qualifying nature. The applicant successfully cleared it and thus became eligible for participating in Tier-II examination.

2.2 Tier-II examination comprised of two parts, namely, objective type and descriptive type. The objective type paper comprised of Multi Choice Questions (MCQ), each having four options with stipulation of negative marking for the wrong answer. The Tier-II examination was conducted on 03.06.2018. The answer-sheets were provided to all the candidates, including the applicant.

2.3 The DSSSB uploaded the answer-key on its website vide Annexure A-5 notice dated 05.06.2018, inviting challenges against the answer-key. The applicant challenged the answer-key in respect of five questions, namely question nos.44, 55, 71, 77 and 84. The challenges received were considered by an Expert Committee of DSSSB. It is stated that the challenge of the applicant to question nos.55 and 71 was accepted by the DSSSB whereas that to question nos.84, 77 and 44 were arbitrarily rejected.

2.4 The applicant has placed on record a photo copy of the front page of the Question Paper Booklet at Annexure A-6 and a copy of the Question Booklet at Annexure A-7 in respect of some questions of the objective type paper of Tier-II examination. His contention is

that the correct answers of question nos.84, 77 and 44, as indicated in the final answer-key, are wrong and that the applicant had answered them correctly and that due to the wrong answers in the answer-key *qua* these questions, the applicant has suffered double whammy; in not getting marks and secondly for getting negative marks for those questions.. Accordingly, he has approached this Tribunal in the instant OA, praying for the reliefs, as indicated in praar-1 supra.

3. The applicant through MA No.3354/2018 has submitted that he had prayed for ad-interim *ex-parte* order directing the respondents nos.1&2 to re-evaluate the OMR sheets after the correct answers to the three questions, i.e., 44, 77 & 84 are settled by the Expert or a Committee appointed by the Tribunal and till then *status quo* shall be maintained. He has further stated that since the interim relief was not granted, the DSSSB has gone ahead with the evaluation of the OMR sheets and has declared the results of Tier-II examination held on 03.06.2018. It is stated that the applicant has obtained 65.30% marks and has been short-listed for the post code 67/12 with a further direction to upload e-dossiers by 13.08.2018. It is further stated that the DSSSB has deleted question nos.55 and 71 from the ambit of evaluation for all the candidates and that he had answered both these questions correctly and that the action of the respondents to delete these

questions has adversely affected the applicant. The applicant has thus contended that his answers to question nos.44, 55, 77 and 84 were correct and that the answers to these questions in the final answer-key published by DSSSB are wrong. He further contended that if the applicant was to be given the marks for these questions as per his correct answers and if the question nos.55 & 71 were also to be evaluated; he would have scored 05 more marks which would have improved his merit position considerably and he would have ultimately got 67.3 marks as against 65.3 awarded to him.

Accordingly, he has prayed for the following reliefs in the MA:

“(A) Re-evaluate the OMR sheet after the three Q. no. i.e. 44, 77 & 84 of question booklet Series No B challenged by the applicant is settled by the expert or the committee appointed by the tribunal and till then the status quo be maintained in the selection process for post code 67/12 for which the applicant has applied and for other post code i.e. 25/15, 214/14 and 26/15 as there were common examination for all these post codes

(B) not release the final selection list in respect of all posts till final disposal of the present O.A. or

Alternatively keep 1 post of general category reserved vacant for the applicant for the post code 67/12 till the final outcome of the OA.

(C) Consider rectified/accepted answer of Q. No.55 during evaluation if it was left while preparing result as declared vide notice dated 26.07.18.”

4. Arguments of Ms. Aishwarya Dobhal, learned counsel for the respondents were heard on 20.08.2018.

5. We have considered the arguments of the learned counsel for the applicant and have also perused the pleadings of the applicant both in the OA and MA. The prayer of the applicant for re-

evaluation of his OMR sheets cannot be considered for the simple reason that there is no rule prescribing for it. The Hon'ble Apex Court in the case of **Ran Vijay Singh & Ors. v. State of U.P. & Ors.**, [(2018) 2 SCC 357] on this issue has held as under:

“30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are: (i) If a statute, Rule or Regulation governing an examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit it; (ii) If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the Court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any “inferential process of reasoning or by a process of rationalisation” and only in rare or exceptional cases that a material error has been committed; (iii) The Court should not at all re-evaluate or scrutinize the answer sheets of a candidate – it has no expertise in the matter and academic matters are best left to academics; (iv) The Court should presume the correctness of the key answers and proceed on that assumption; and (v) In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.”

6. In view of the ratio of law laid down by the Hon'ble Apex Court in the aforementioned judgment, the prayer of the applicant for re-evaluation of his OMR sheet cannot be considered and accordingly it is rejected. It would be pertinent to observe that in a competitive examination process, any wrong answer to a question in the answer-key affects the candidates across the board and hence it is the duty of the recruiting agency, in this case, DSSSB, to ensure that the answer-key contains correct answers to the questions and there is no room for any ambivalence or dispute.

7. In the conspectus, we do not find any merit in the OA and MA and accordingly they are dismissed.

(S.N. Terdal)
Member (J)

(K.N. Shrivastava)
Member (A)

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