

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
Order reserved on: 7.9.2018

**Miscellaneous Application No. 060/00345/2017
& M.A. NO. 060/01009/2018
in ORIGINAL APPLICATION NO. 060/00154/2017**

Chandigarh, this the 12th day of September, 2018

...
**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)**

...
Amarjeet Singh son of Shri Prem Singh age 56 years working as Senior Section Engineer/Electric in the office of Xen/Bridge Workshop, JRC under Section DEE/G/Ferozpur, Punjab.

....APPLICANT

(By Advocate: Shri D.R. Sharma, Advocate)

VERSUS

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Chief Personnel Officer, Northern Railway, Baroda House, New Delhi.
3. The Chief Electrical Engineer, Northern Railway, Baroda House, New Delhi.
4. Vasiyat Ali, Senior Section Engineer/Charge/Divisional Railway Manager/Delhi (SSE/Chg/DRM/DLI).
5. Mahkar Singh, Senior Section Engineer/Jagadhari Workshop (SSE/JUDW Workshop).
6. Kunwar Luqman Khan, Chief Vigilance Inspector/Head Quarters/New Delhi Baroda House (CVI/HQ/NDBH).
7. Gurshan Jit Sing Dhunna, Senior Section Engineer/Power/Electric/Ludhiana (SSE/P/Elect/LDH).
8. Tej Bahadur Rai, Senior Executive/Rail Vikas Nigar Limited/Junior/Engineer/Traction Distribution/New Delhi (Sr. Exec/RVNL/JE/TRD/NDLS).

9. Kiran Prakash Sharma, Senior Section Engineer/Kalka Workshop (SSE/KLK, Workshop).
10. Manoj Kr. Srivastava, Senior Section Engineer/Electric/Planning/Lucknow (SSE/Elect/Plg/LKO).
11. Santosh Kumar (SC), Senior Section Engineer/Charging/Head Quarters (SSE/Chg/HQ).

....RESPONDENTS

(By Advocate: Shri Lakhinder Bir Singh)

ORDER

AJANTA DAYALAN, MEMBER (A)

The present Original Application has been filed by applicant Amarjeet Singh seeking quashing of impugned order dated 16.12.2013 (Annexure A-1) declaring result of selection process held for promotion to the post of Assistant Electrical Engineer, Northern Railway against 30% quota vacancies for assessment period 01.04.2011 to 31.03.2013. He has also prayed for re-evaluation of his answer books and a direction to the official respondents to award him additional 39.50 marks and select him for the above said post with all consequential benefits.

2. The facts of the case are not in dispute. The applicant was confirmed as Junior Engineer-II in 1984 and subsequently promoted as Junior Engineer-I in 1989; Section Engineer (Elect) in 1997 and Senior Section Engineer in the year 2003. Northern Railway initiated the process for selection for promotion to the post of Assistant Electrical Engineer against 30% quota vacancies for the assessment period 1.4.2011 to 31.3.2013. The applicant appeared in the written test held on 16.7.2013 and was declared

successful. He was appeared in viva-voce test held on 13.11.2013. In all 22 candidates including the applicant appeared for viva-voce and the respondents selected 8 candidates (private respondents in this O.A.). The applicant's name did not find place in the list of successful candidate in order dated 16.12.2013 (Annexure A-1).

3. The applicant's case is that he tried to get information under Right to Information Act, 2005 relating to the examination including copies of answer books, model answer keys, details of mark-sheet etc. in respect of all 22 candidates. He could, however, only get part information vide letter dated 29.4.2015 and found that he had got 237.1 marks out of total 300 marks and was placed at serial no. 16. Subsequently, the applicant tried to get additional information by filing appeals at various levels, but not to much avail. Finally, vide letter dated 8.02.2016 of the respondents, he was able to obtain total marks obtained by all candidates (Annexure A-1/A). He is claiming that his answer books have not been properly evaluated. He has annexed an assessment statement at Annexure A-12 indicating discrepancies noted by him. As per his assessment, he needs to be awarded 39.5 more marks in view of the discrepancies highlighted therein and deserves to be selected.

4. The applicant has also pleaded that the delay on his part in filing the instant O.A. is not intentional, but because of non supply of relevant information by the respondent department due to which he was not able to approach this Tribunal earlier and the delay of 738 days since 16.12.2013 needs to be condoned.

5. The respondents have pleaded that the O.A. has been filed after 4 years of the cause of action in 2013 and hence is completely time barred. They have also pleaded that no satisfactory explanation has been given for the delay. The reason given by the applicant is non-receipt of information under RTI from the respondent department in order to substantiate his case. However, in case the required information was not forthcoming in the time schedule prescribed in the RTI Act, the applicant was free to approach the Tribunal immediately thereafter. He has failed to do so and arguments put forth by him fail to explain each day's delay as required under the Central Administrative Tribunals Act, 1985. They have also pointed out that even as per the pleadings of the applicant himself, the information based on which the present case has been made out was received vide letter dated 8.2.2016 of the respondents. However, the M.A. has been filed only on 13.2.2017 i.e. almost a year thereafter. The respondents have, therefore, stated that the O.A. deserves to be dismissed.

6. We have heard the learned counsels for the opposing parties, gone through the pleadings available on record and have also given our thoughtful consideration to the matter.

7. We observe that there is no doubt that the O.A. is time barred. The cause of action, without dispute arose on 16.12.2013 when vide Annexure A-1 the result was declared. There is not much force in the plea put forth by the applicant that he was unable to approach the Tribunal due to non receipt of information from the respondent department to substantiate his case. In case he was not

able to obtain information under RTI Act, he should have exhausted all the levels of appeals under the RTI Act within the time prescribed there under and thereafter he should have been approached the Tribunal within the time lines prescribed under the Central Administrative Tribunals Act, 1985. This has obviously not been done in the instant case. Further, even as per his own pleadings, though the information based on which he has now approached the Tribunal has been received by him vide letter dated 8.2.2016 from the respondents, he has filed the instant O.A. only on 13.2.2017. This involves of delay over 1 year even after the receipt of information from the respondents. No good and sufficient grounds have been made out by the applicant to explain this portion of delay. The case is, therefore, clearly time barred and thus not admissible under Section 21 of the Administrative Tribunal Act, 1985.

8. Besides, it is observed that the process of selection was initiated in 2013 and was also completed with the declaration of result and promotion of successful candidates in December 2013. For the applicant to approach the Tribunal more than 3 years thereafter is not appropriate as it disturbs settled issues including promotion and seniority.

9. We further observe that the applicant has gone through his answer sheet and then has himself assessed the marks that should be awarded to him. He has produced Annexure A-12 of 'discrepancies' wherein he has indicated the marks already awarded and what should have been awarded to him. Based on

this, he has stated that 39.5 more marks need to be awarded to him. Given these marks, he would be included in the revised merit and would be selected. We have gone through this discrepancy list and find that most of the assessments that the applicant is making for himself are not based on objective assessment like a correct answer being given full marks and incorrect answer being given zero in case of objective type questions. The chart made by him mostly relates to descriptive questions where marks awarded to him are already found beyond 50% and he is seeking increase by 1 or 2 marks in questions of maximum 10 marks. For instance, in a question of 10 marks, 7 or 8 marks have already been awarded and he is claiming that he should get 1 mark additional and so on. In fact, there is only one case where he is claiming full marks against zero mark awarded to him and this question is of 2 marks only. We find that there is no way that such subjective type of assessment can be made the basis for ordering revaluation- that too on an assessment made by the applicant himself. The applicant has not been able to prove any valid ground to question the evaluation done by the evaluator. If any reevaluation is allowed, not only his but everybody's answer script would need to be re-evaluated and that would mean reopening the whole selection process. As indicated above, no ground has been made out for any interference by this Court in the matter.

10. In view of above observations, we are of the view that no inference by this Court is required. The O.A. being time barred and also devoid of merit deserves dismissal.

11. Therefore, M.A. for condonation of delay as well as O.A. are dismissed. Pending M.A. No. 060/01009/2018 also stands disposed of. No costs.

(AJANTA DAYALAN)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: .09.2018
`SK'



