

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00437/2012

Jabalpur, this Friday, the 31st day of August, 2018

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Phool Chandra Gupta, S/o Shri B.L.Gupta,
Aged about 52 years, R/o LIG Senior 380,
Vindhya Vihar Colony, Behind A.G.College, Padra,
Rewa-486001 (M.P.)

-Applicant

(By Advocate –**Shri Vijay Tripathi**)

V e r s u s

1. Union of India, through its Secretary,
Ministry of Communication & IT ,Department of Posts,
Dak Bhawan, Sansad Marg, New Delhi-110001

2. Chief Post Master General, M.P.Circle,
Hoshangabad Road, Bhopal-462012 (MP)

3. Assistant Post Master General, (Establishment & Recruitment)
Chief Post Master General, M.P.Circle,
Hoshangabad Road, Bhopal-462012 (MP)

4. Director, Postal Services (HQ),
M.P.Circle, Hoshangabad Road, Bhopal-462012 (MP)

5. Superintendent of Post Offices,
Rewa Division, Rewa-486001 (M.P.)

-Respondents

(By Advocate –**Shri S.K.Mishra**)

(Date of reserving the order:-06.07.2018)

ORDE**By Ramesh Singh Thakur, JM:-**

The applicant by way of filing the instant Original Application is challenging the order dated 06.02.2012 (Annexure A-1) whereby the representation of the applicant for revaluation of answer sheet has been rejected. Hence he has filed this Original Application.

2. The applicant has sought for the following reliefs in this Original Application:-

Relief Sought:

“8(i) Summon the entire relevant record form the respondents including the question paper of Arithmetic of both version and the original answer sheet including tabulation sheet, for its kind perusal.

8(ii) Direct the respondents to re-evaluate the answer sheet of the applicant of paper-II. If he is declared pass in the paper-II, a suitable direction for the appointment of the applicant for the post of Postal/Sorting Assistant may kindly be issued from the day the other similarly situated persons were selected with all consequential benefits.

8(iii) Any other order/orders, direction/directions may also be passed.

8(iv) Award cost of the litigation to the applicant.”

3. Learned counsel for the applicant submitted that the applicant was initially appointed on 02.11.1991 as Gramin Dak Sevak Sub Post Master, Bela (GDSPM). While working as GDSPM, the applicant participated in the examination of Postman

and got selected for the post of Postman. Thereafter, appointment letter was issued to the applicant and the applicant joined as Postman at Head Post Office, Rewa.

4. It was further contended by the counsel for the applicant that a notification dated 05.08.2010 (Annexure A-2) was issued for promotion of Department Lower Grade Officials to the cadre of Postal/Sorting Asstt. The applicant being eligible candidate submitted his candidature for the said post and was issued Hall Permit to appear in the examination filed at Annexure A-3. The candidates were required to appear in three papers for qualifying the said examination. The applicant also appeared in the said examination. The applicant submitted an application dated 30.04.2011 to provide his mark-sheet, which was provided to him vide letter dated 24.05.2011 (Annexure A-4).

5. Learned counsel for the applicant further averred that the candidates were required to obtain 40 marks in each paper and 45% aggregate to qualify in the examination, however, the applicant got only 39 marks in paper II. Being not satisfied with his marks, he submitted an application dated 28.05.2011 for revaluation/re-totalling of Paper-II. The respondents replied to the said application

informing the applicant that after re-totalling no change was found. A copy of the letter dated 18.07.2011 is annexed as Annexure A-5.

6. Learned counsel for the applicant further submitted that the applicant was not satisfied with the reply of the respondents and submitted an application dated 02.08.2011 (Annexure A-6), under Right to Information Act to provide him the answer sheet of Paper II. The answer sheet and question paper was provided to the applicant. After perusal of the same the applicant preferred a representation dated 22.11.2011 (Annexure A-10) to correct the answer-sheet of the applicant. The respondents rejected the representation of the applicant vide order dated 29.02.2012 (Annexure A-1).

7. The respondents have filed their reply, wherein in the preliminary submissions they submitted that the applicant secured only 39 marks out of 100 in Paper-II. The minimum qualifying marks for each paper is 40% for UR category. Hence his name could not be included in the list of qualified candidates of written test. The applicant has applied for revaluation of Paper II which resulted into no change in the marks secured by him. Rule 15, Part I Appendix-37 of Postal Manual Vol. IV filed at Annexure R-1 which clearly states that revaluation of answer papers are not

allowed in any circumstance. The applicant challenged the order dated 06.02.2012 whereby his request for revaluation has been rejected.

8. The respondents in their Para-wise reply have submitted that Annexure A-9 is the copy of question Paper-II distributed in the examination hall, wherein there is a distribution of marks against the question No. IV and VII. As per the instructions contained in question papers candidates have to answer question No. 1 & 2 compulsorily and to answer three questions from the remaining. Each question carries equal marks. Total 05 questions were to be attended by the candidates for which total 100 marks (20 each) was prescribed, but due to mistake the marks mentioned in the question paper was incorrect and was further been rectified vide order dated 23.10.2010 (Annexure R-4). It has been intimated to the evaluator that the evaluation of Paper II was to be done in accordance with the letter dated 29.12.2010 (Annexure R-5).

9. Learned counsel for the respondents further contended that the answer sheets have been properly valued and proper marks has been awarded by the evaluator. Both parts of question No. 4 carrying 20 marks i.e. each such part carry 10 marks and accordingly awarded the marks to the applicant as per his

performance. Thus allegation that both part carried 10 marks is totally incorrect and there is no illegality in the action of the respondents.

10. The applicant has filed the rejoinder to the reply filed by the respondents and has reiterated its earlier stand.

11. We have heard the learned counsel for the parties and carefully perused the pleadings and the documents available on record.

12. From the pleadings, it is admitted fact that applicant was appointed on 02.11.1991 as Gramin Dak Sevak and thereafter the applicant participated in the examination of Postman and got selected and the applicant joined as such at Head Post Office, Rewa. It is also admitted fact that the applicant had applied for promotion of Departmental Lower Grade Official to the cadre of Postal/Sorting Assistant. The applicant appeared in the said examination. It is also an admitted fact that the applicant secured 39 marks out of 100 in paper II. The minimum qualified mark for each paper is 40 % for unreserved category. Hence his name could not be included in the list of qualified candidates of the written test. The contention of the applicant is that he submitted an application dated 28.05.2011 for revaluation/re-totalling of paper II and as per

letter dated 18.07.2011 (Annexure A-5), the applicant was informed that after re-totalling, no change was found. It has been submitted by the applicant that he submitted an application (Annexure A-6) under Right to Information Act to provide him answer sheet of paper II. After perusal of the same, the applicant preferred representation dated 22.11.2011 (Annexure A-10) to correct the answer sheet of the applicant which was rejected by the respondents vide Annexure A-1.

13. On the other hand, the contention of the respondents is that, though the applicant has applied for revaluation of paper-II, under Rule 15, Part I Appendix-37 of Postal Manual Volume IV (Annexure R-1) clearly states that the revaluation of answer sheet are not allowed in any circumstances, so the request for revaluation by the applicant has been rejected.

14. The replying respondents has specifically submitted that Annexure A-9, which is a copy of question Paper-II distributed in the examination hall, wherein there is a distribution of marks against the question No. IV & VII. As per instructions contained in the question paper candidates have to answer question No. 1 & 2 compulsorily and to answer three questions from remaining. Each question carries equal marks. Total five questions were to be

attended for which total 100 marks (20 each) are prescribed but due to mistake the marks mentioned in the question paper was incorrect which was further rectified vide order dated 23.10.2010 (Annexure R-4). It has been intimated to the evaluator that evaluation of Paper II was to be done in accordance with the letter dated 29.12.2010 (Annexure R-5).

15. The counsel for the applicant had relied upon the judgment passed by the Hon'ble Apex Court in the matters of **Karnataka Power Corpn. LTD. & Another vs. A.T. Chandrashekhar**, 2007(9) SCC 558 and also relied upon **Guru Nanak Dev University vs. Saumil Garg and Others**, 2005 (13) SCC 749.

16. On the other hand the counsel for the respondents had relied upon the judgment passed by the Hon'ble High Court of M.P. in the matters of **Hemant Ku. Sharma vs. State of M.P.** in Writ Petition no. 6744/2014.

17. In this matter the Hon'ble High Court of Madhya Pradesh has considered the judgment passed by the Hon'ble Apex Court in the matters of **Himachal Pradesh Public Service Commission vs. Mukesh Thakur and another**, 2010 (6) SCC 759 and the Hon'ble High Court has held that in an absence of provision, the mandamus for revaluation can not be issued. In the present case, there is

specific provision, whereby the revaluation is not permitted. As per Annexure R-1 the relevant portion of Rule 15, Part I, Appendix -37 of the Postal Manual Volume IV is as under:

“15. Revaluation of answer books-Revaluation of answer script is not permissible in any case or under any circumstances.”

So in the instant case, there is no provision for revaluation rather revaluation has been prohibited.

18. In the reply the respondents has clearly mentioned that the evaluator has awarded zero marks for part अ of question No. IV out of 10 marks being wrong answer and 4 marks has been awarded for आ of question No. IV out of 10 marks as it is clear from the answer sheet filed by the applicant. It has been specifically mentioned that evaluator has valued the answer keeping in view the question No. IV, V, VI and VII which carries 20 marks each. It has been submitted by the replying respondents that in fact question No. 4 is having two sub parts, (to which the applicant has denoted as IV अ & आ in answer sheet) and both sub-parts carries 10 marks each making the whole question number 4 carries 20 marks and as such the evaluator has awarded zero marks for sub part अ being wrong answer and 04 marks for sub part आ of question No. IV of 10 marks each of sub part, which is clear as per letter dated 29.12.2010 (Annexure R/5). Sub part आ

of question No. 4 has not been solved step by step. Hence, four marks only have been awarded for this sub-part out of 10 marks. So the explanation given by the respondent department is correct and no interference is required by us.

19. Hence, in view of the above we do not find any merit in the Original Application. Resultantly, the Original Application is dismissed. No order on costs.

(Ramesh Singh Thakur)
Judicial Member
rn

(Navin Tandon)
Administrative Member