

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

**Pronounced on : 04.09.2018**

**Reserved on : 23.08.2018**

**CORAM: HON'BLE MR.SANJEEV KAUSHIK, MEMBER(J)  
HON'BLE MRS. P. GOPINATH, MEMBER(A)**

**OA No. 063/01190/2017**

Hitesh Verma S/o Sh. Inder Singh, R/o Village Dol Pargana, P.O. Dhari Tehsil and Distt. Shimla – 171219.

.....Applicant

BY ADVOCATE: **Sh. B.Nandan Vasisht**

VERSUS

1. Union of India through Secretary, Ministry of Defence, Govt. of India, South Block, New Delhi – 110 011.
2. The General Officer Commanding-in-Chief, Western Command, Chandimandir, Chandigarh.
3. The General Officer Commanding Sub-Area, Ambala Cantt, (Haryana).
4. The Station Commander, Army Training Command (ARTRAC), Shimla – 171001.
5. The Administrative (Admn.) Commandant, Army Training Command (ARTRAC) Headquarter, Shimla – 171001.
6. The Officer Commanding, Station Workshop, Electronic and Mechanical Engineering (EME), Jatog, Shimla – 171008.

.....Respondents

BY ADVOCATE: **Sh. Anshul Bansal**

**ORDER**

**MRS. P. GOPINATH, MEMBER(A):-**

1. The applicant applied for the post of Tradesman (Mate) advertised by 6<sup>th</sup> respondent on 07.01.2017. He appeared in the written and physical test conducted on 16.02.2017. Applicant was declared

provisionally selected and directed to report for medical examination and other document production and verification. Applicant completed all document formalities and submitted his medical certificate issued by State Medical Board on 31.03.2017. The 6<sup>th</sup> respondent directed the applicant to get the medical in the Military Hospital, Jutog and the same was also complied with by the applicant.

2. Despite completion of all formalities, the 6<sup>th</sup> respondent withheld the issuance of appointment letter. Applicant made several requests/representation to the 6<sup>th</sup> respondent regarding his matter. Applicant preferred OA (unnumbered) before the Tribunal which was decided on 11.08.2017 with the direction to the 6<sup>th</sup> respondent to decide his representation within a month. Applicant is aggrieved by the Annexure A-9 reply to his representation. The prayer of the applicant is for quashing Annexure A-9 wherein the 6<sup>th</sup> respondent cancelled the appointment of the applicant for the post of Tradesman (Mate). The applicant also prays that directions be issued to the 6<sup>th</sup> respondent to issue appointment letter to the applicant for the post of Tradesman (Mate).

3. The respondents in the reply statement submit that no appointment letter was issued to the applicant in view of facts and circumstances narrated in Annexure A-9 speaking order dated 07.09.2017 and hence, no right has accrued to the applicant. A re-evaluation of the answer sheet of the applicant was carried out on 03.07.2017 as a consequence of an RTI application filed by one candidate Sh. Gopal on 05.06.2016. As a consequence of the re-evaluation, the applicant secured 86.50 marks, instead of 89.50 marks evaluated earlier. Sh. Gopal secured

88.7 marks in the re-evaluation, thereby, going above the applicant in merit. The respondents, therefore, submit that the candidature of the applicant has been rightly rejected by the 6<sup>th</sup> respondent. The respondents' main argument is that the applicant is provisionally selected and was not issued an appointment letter; therefore, it cannot be said that his rank in the merit list was final.

4. Heard the learned counsel for applicant and respondents and perused the written submissions made.

5. The respondents, when asked by the Bench, to produce the rules which provided for re-evaluation of answer sheets, submitted that no such rules exist in the respondent organization. When asked as to under which rule, a re-evaluation based on an RTI application was admissible, the respondents replied in negative that there was no such provision also under the Right to Information Act. The respondents during perusal of re-evaluation file produced before us brought to our notice that the first evaluation of the candidates was done in red ink and the subsequent evaluation was done in green ink.

6. Whereas the Tribunal would not be the appropriate authority to take a decision on whether the evaluation was done appropriately, we record that in the absence of any rules which provide for re-evaluation, the respondents should not have undertaken a re-evaluation at all. The Apex Court in **Pramod Kumar Srivastava Vs. Chairman Bihar Public Service Commission, Patna & Ors., (2006) 6 SCC 714**, a case wherein applicant had wanted a re-evaluation of one paper in the Judicial Services Examination, had stated that in absence of any provision in the rules for re-

evaluation of the answer-books, the said exercise cannot be undertaken and any direction for re-evaluation will open a floodgate for other candidates to come out with similar plea which will ultimately cause chaos and a great delay in declaring the final result. The Apex Court had rightly observed that the examination in question was a competitive examination where the comparative merit of a candidate had to be judged. It is, therefore, absolutely necessary that a uniform standard by the same examining team had to be applied in evaluating the answer sheets of all those who appeared in the examination. No candidate has got any right whatsoever to claim or ask for re-evaluation of his marks if the examination scheme makes no provision for the same.

7. The respondents had changed the evaluators/Board of Officers in the re-evaluation bid which was called as “Confirmatory validation of result and re-evaluation” as seen from the “Re-evaluation” file produced before the Bench. As a matter of fact, the respondents attempted two re-evaluation before the confirmatory validation was made. The first re-evaluation of the answer sheet was carried out on 03.07.2017 and second re-evaluation of the answer sheet was carried out on 20.07.2017. Since there is no provision for re-evaluation of the answer books, the action of the respondents in re-evaluating twice and awarding a different set of marks than that awarded in first evaluation is required to be quashed and the applicant be issued an appointment letter for the post applied for on the basis of original evaluation and marking made which cannot be revisited in the absence of any rules to support the re-evaluation.

8. For the aforesaid discussion, the re-evaluation is quashed. Respondents are directed to issue appointment letter to the applicant on the basis of marks obtained in the evaluation. No costs.

**(P. GOPINATH)**  
**MEMBER (A)**

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

Dated:  
**ND\***

