

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

**O.A No.4234/2016**

Order reserved on : 18.12.2018

Pronounced on : 19.12.2018

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

Mandeep Singh Bhatia,  
Aged about 44 years  
Presently working as  
Director/TT /Coaching –II Railway Board,  
New Delhi (Group A). -Applicant.

(By Advocate: Mr. S.K.Gupta with Mr. P.R. Chaudhuri)

**VERSUS**

Union of India through

1. Secretary,  
Ministry of Railways  
Rail Bhawan, New Delhi.
2. General Manager,  
West Central Railway,  
Jabalpur, M.P.

(By Advocate: Mr. Shailendra Tiwari)

**ORDER**

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

- “(ii) Quash and set aside the charge sheet dated 17.03.2015 (Annexure-A-1) and punishment order 15.05.2015 (Annexure-A-1) and also order dated 12.07.2016 with all consequential benefits;”

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

2.1 The applicant at the relevant point of time was working as Senior DCM in Bhopal Division of West Central Railway. He was nominated as an Evaluator of the answer-sheets of written examination for the selection to the post of Section Controller. The written examination was held on 19.01.2013 which was an objective type with multiple choices for a question. The candidates were to tick the correct answer. As per the instructions, no correction, viz. cutting, overwriting, erasing, scoring off ticked answers was permitted. The applicant while evaluating the answer-sheets, apparently evaluated answers of the candidates even in respect of answers with aforementioned corrections. For this irregularity at the end of the applicant, Annexure A-15 minor penalty charge-memo dated 17.03.2015 came to be issued to him. The statement of imputation of misconduct enclosed with the charge-memo reads as under:

“Shri Mandeep Singh Bhatia, while working as Sr. DCM, West Central Railway, Bhopal has committed following irregularities as under:

Shri Mandeep Singh Bhatia the then Sr.DCM/BPL (now Sr.DOM/Kota) was nominated as evaluator of answer sheets for the selection to the post of Section Controller (75% Departmental Quota) of Bhopal Division for which written examination held on 19.01.2013. Shri Mandeep Singh Bhatia has evaluated answer sheets and awarded marks to some candidates for the answers which have been amended /overwritten by the candidates in objective type questions, whereas in the answers to objective type answers no corrections viz cutting, overwriting erasing, scoring off a ticked answer in multiple choice and ticking another answer and modifying the answer in any way is permitted. In case may correction is made, that answer shall not be evaluated at all. Further, Shri Bhatia himself has amended

the marks once awarded in many answer sheets without putting his initials on those amendments which is again against the given instructions for evaluation. Shri Mandeep Singh Bhatia has failed to discharge his duties properly assigned to him which had affected the result of the written test and the merit list of the qualified candidates. The mistakes committed by him evidently suggest his casual approach and carelessness towards the duties assigned to him.

Thus, by the above act, Shri Mandeep Singh Bhatia, the then Sr.DCM/BPL ( now Sr. DOM/Kota ) failed to maintain devotion to duty, thereby he contravened the provision of Rule 3.1(ii) of Railway Services (Conduct) Rules, 1966.”

2.2 The applicant submitted his Annexure A-9 representation against the charge-memo, *inter alia*, stating therein that answers to some of the questions, which he evaluated, did not have any discernible corrections and even if the allegation of incorrect evaluation is considered true, the concerned candidate did not get any undue benefits. The applicant has thus contended that he has not indulged into any misconduct.

2.3 The Disciplinary Authority (DA) namely, the General Manager, West Central Railway was not satisfied with the explanation of the applicant and vide impugned Annexure A-1 order dated 15.05.2015 imposed the penalty of ‘**Censure**’ on the applicant. The order also, however, notes that no *mala fide* intention was apparent on the part of the applicant.

2.3 Aggrieved by the order of the DA, the applicant preferred an appeal before the Appellate Authority (AA), i.e., the President of India, who after consulting Union Public Service Commission (UPSC), passed the impugned Annexure A-11 order dated 12.07.2016, rejecting the appeal of the applicant. Before passing its order, the AA had made a copy of the UPSC advice available to the applicant for his comments.

2.4 Aggrieved by the Annexure A-1 and Annexure A-11 orders passed by the DA and AA respectively, the applicant has approached the Tribunal in the instant OA, praying for the relief as indicated in para-1 supra.

3. Pursuant to the notices issued, the respondents entered appearance and filed their reply.

4. On completion of the pleadings, arguments of the learned counsel for the parties were heard on 18.12.2018.

5. Shri S.K. Gupta, learned counsel for the applicant submitted that the DA has passed the impugned Annexure A-1 order on the allegation that the applicant had evaluated the answers of candidates having cutting, over-writing etc. but copies of the answer-sheets were not made available to the applicant. In the other words, the copies of the relied upon documents were not supplied to the applicant. Hence, the punishment order is against the principles of natural justice in terms of the decision of the Hon'ble Supreme Court in the case of **Bilaspur Gramin Bank v. Madan Lal Tandon**, [(2015) 8 SCC 461]. Shri Gupta further submitted that the order of the DA and AA are non-speaking. He said that even the allegations against the applicant are vague and non-specific and no *mala fide* has been alleged against the applicant for the alleged irregularities in evaluation of the answer-sheets.

6. *Per contra*, Shri Shailendra Tiwary, learned counsel for the respondents stated that after the charge-memo was served upon the applicant and he was called upon to submit his representation against the same. The applicant never requested for supply of any additional

document like copies of answer-sheets corrected by him. As such, there is no violation of the principles of natural justice in the conduct of the DE proceedings. He also stated that from the representation of the applicant to the charge-memo, it is quite evident that the applicant had indeed evaluated certain answers which were fraught with correction/over-writing. The charge against the applicant of violation of the instructions relating to evaluation of the answer-sheets has been *prima facie* established. Shri Tiwary thus contended that the punishment of '**Censure**' imposed upon the applicant was not justified.

7. I have considered the arguments of the learned counsel for the parties and have also perused the pleadings. As per the extant instructions relating to evaluation of the answers of the multiple choice objective questions, the answers of the candidates having correction/over-writing, cuttings were not to be evaluated. From the reply of the applicant to the charge-memo (Annexure A-9), it is quite evident that the applicant had indeed evaluated a few of such answers albeit without any *mala fide* intention. Even the order of the DA records that there was no *mala fide* intention on the part of the applicant in evaluating such answers. However, the applicant's casualness in not adhering to the instructions in evaluation of answer-sheets has definitely been established. The punishment of '**Censure**' for such minor misconduct cannot be called disproportionate.

8. I also do not agree with Shri S.K. Gupta, learned counsel for the applicant that the orders passed by the DA and AA are non-speaking orders. From a bare reading of these two orders, one would get a clear

impression that these orders are quite reasonable and fairly speaking. From the representation of the applicant to the charge-memo, it is quite clear that he has never demanded copies of the answer-sheets evaluated by him which purportedly contained answers with correction/over-writing/cutting. Hence, the applicant cannot take a plea in the present OA that copies of the relied upon documents have not been supplied to him and thus the principles of natural justice have been violated.

9. In view of the above, I do not find any merit in this OA. Accordingly it is dismissed.

10. No order as to costs.

**(K.N. Shrivastava)**  
**Member (A)**

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