

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

O.A. No.597 of 2019

This the 29th Day of March 2019

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

Jyoti Malik, Age – 23 years
D/o Sh. Rohtas Singh,
R/o RZ-, Block-X,
New Roshan Pura Extension,
Rishal Singh Marg, Najafgarh,
New Delhi-43.

....Applicant

(By Advocate : Shri Yashpal Rangi)

VERSUS

Govt. of NCT of Delhi & Ors., through its:

1. Secretary,
Urban Development & Director of Local Bodies,
Govt. of NCT of Delhi,
9th Floor, 'C' Wing,
Delhi Secretariat, New Delhi-110002.
2. Delhi Subordinate Services Selection Board
Through its Secretary,
FC-1 Institutional Area,
Karkardooma, Delhi-110092.
3. North Delhi Municipal Corporation,
Through its Commissioner,
Head Quarter, Dr. S.P.M. Civic Centre,
Minto Road, New Delhi-110002.
4. South Delhi Municipal Corporation,
Through its Commissioner,
Head Quarter, Dr. S.P.M. Civic Centre,
Minto Road, New Delhi-110002.
5. East Delhi Municipal Corporation,
Through its Commissioner,
419, Udyog Sadan, Patparganj Industrial Area,
New Delhi-110092.

.....Respondents

(By Advocate : Shri Anuj Kr. Sharma, Ms. Esha Mazumdar
and Shri Amit Anand)

ORDER (Oral)

Ms. Nita Chowdhury, Member (A):

Heard learned counsel for the parties.

2. By filing this OA, the applicant is seeking the following reliefs:-

- “i) Direct the DSSSB to produce the copy of ORM sheet of applicant; and
- ii) Direct the respondents to treat option (c) of question no.157 as correct answer for the examination held on 13.10.2018 for post of Primary Teacher under MCD for Post Code 16/17 and further direct the respondent no. 2 to award 1.25 additional marks for her answer to question no. 157 and delete the question no.200; and
- iii) Direct the respondents to declare that applicant as shortlisted candidate and consequently her case for appointment to the post of Primary Teacher under MCD for Post Code 16/17; or
- iv) In the alternative dispose of the Original Application with direction to the respondents to direct her representation in consultation with experts on the subject and intimate their decision to the applicant by way of detailed, reasoned and speaking order, duly commenting upon the aforementioned material within certain prescribed time; and
- v) pass any other orders as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case.”

3. It is alleged by the applicant that DSSSB advertised the vacancy of Teacher (Primary) under post Code 16/17 & 1/18 and conducted the objective examination in four batches on 30.9.2018, 13.10.2018, 14.10.2018 and 28.10.2018. Vide notices dated 17.10.2018, 30.10.2018, 31.10.2018 and 5.11.2018 respectively and uploaded the draft answer keys of

the question in respect of master set of question paper on Board's website and invited objections on the draft answer key and after consideration of the objections, final answer keys were issued vide notices dated 4.12.2018, 4.12.2018, 4.12.2018 and 11.12.2018 respectively. In respect of final answer key of exam dated 13.10.2018, the objections filed by the candidates were sent to the subject expert, who after considering the objections suggested following changes in the draft answer key:-

S.No.	Question numbers	Answer as per draft answer key	Final/revised answer keys
1.	127	A	B
2.	140	D	B
3.	157	A	B

4. It is the contention of the applicant of this OA that the answers given in the answer keys were wrong. Hence, he has sought that the DSSSB be directed to produce the copy of ORM sheet of the applicant and further direct the respondents to treat option (c) of question no.157 as correct answer for the examination held on 13.10.12018 for the post of Primary Teacher under MCD for post Code 16/17 and also direct the respondent no.3 to award 1.25 additional marks for her answer to question no.157 and delete the question no.200.

5. Today, Chairman of DSSSB is present in person and she reiterates that after receipt of objections on the draft answer keys, the Committee of experts has examined the

same and vide Notice dated 4.12.2018 final answer keys were also uploaded for viewing in the e-challenge module. The answer keys are now final and will remain unchanged for the said post. No further correspondence shall be entertained in respect of answer keys.

6. Counsel for the respondents placed reliance on the decision of the Hon'ble Supreme Court in the case of **Ran Vijay Singh & others vs. State of Uttar Pradesh** in Civil Appeal No.367 of 2017 dated 11.12.2017 in which it has been 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....”

7. Applicant's counsel wishes to rely upon the decision of the Apex Court in the case of **Richal and others vs. Rajasthan Public Service Commission and others**, (2018)

8 SCC 81, but we do not find anything in the said judgment which helps him. In fact, his request is that the Bench itself ascertain the correctness of the answer keys through the DSSSB. However, carrying out of such exercise itself has been strictly deprecated by the Apex court in ***Ran Vijay Singh*** (supra) in which it has been observed as under:-

“33. The facts of the case before us indicate that in the first instance the learned Single Judge took it upon himself to actually ascertain the correctness of the key answers to seven questions. This was completely beyond his jurisdiction and as decided by this Court on several occasions, the exercise carried out was impermissible. Fortunately, the Division Bench did not repeat the error but in a sense, endorsed the view of the learned Single Judge, by not considering the decisions of this Court but sending four key answers for consideration by a one-man Expert Committee.”

8. In view of the detailed explanation given by the respondents with regard to the fact that they have considered the objections/correspondence with regard to the final answer keys by subjecting the said objections to the decision of the said experts and thereafter issued a final answer keys for the examination for the post of Teacher (Primary) Post Codes No.16/17 and 1/18 held on 13.10.2018, we do not find any merit in the present OA. Accordingly, the same is dismissed. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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