

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.1094/2015
MA 2073/2015

Reserved on: 04.09.2019
Pronounced on: 13.09.2019

**Hon'ble Mr.S.N.Terdal, Member (J)
Hon'ble Ms. A.K.Bishnoi, Member (A)**

Vijay (For appointment to the post of
Asstt. Teacher (Primary)

S/o Balbir
Aged around 28 years
R/o H.No. 348/26,
Ram Nagar Colony,
Rohtak Road Jind, Haryana-126102.

... Applicant

(By Advocate: Mr. Harpreet Singh with Mr.Arunesh Sharma)

VERSUS

1. The Government of NCT of Delhi,
Through the Chief Secretary,
Delhi Secretariat, Players Building,
I.P. Estate, Delhi-110002.
2. Delhi Subordinate Services Selection Board
Through its Chairman,
F 16-18, Institutional Area,
Karkardooma, Delhi-92
... Respondents

(By Advocate: Mr. Amit Anand)

O R D E R

Hon'ble Mr. S.N.Terdal, Member (J):

We have heard Mr. Harpreet Singh, counsel for applicant and Mr. Amit Anand, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicant has prayed for the following reliefs:

"(i) To call for the records of the case;

- (ii) To direct the respondents to revise the answers to question nos. 94 and 131 (Set-D) in the written examination conducted by Respondent No. 2 for the post code 101/12;
- (iii) To rant the cost and expenses of the OA in favour of the applicant; and,
- (iv) To grant any other relief as deemed just and proper by this Hon'ble Tribunal."

3. The relevant facts of the case are that the respondents issued an advertisement calling for application for filling up the vacancies for the post of Assistant Teacher (Primary) in GNCTD under post code 71/09 and 101/12 vide advertisement number 04/2009 and 02/12 respectively. The respondent-Board conducted the combined examination for both the post codes on 25.08.2013. The answer keys for the said examinations were uploaded on the website on 29.08.2013 and representations/objections regarding answer keys were invited from the candidates giving 08 days time. The said Notification is extracted below:-

"Subject: Answer Keys of Objective Type one tier examination for the post of Assistant Teacher Primary post code 71/09 and 101/12.

- 1. Delhi Subordinate Services Selection Board conducted Objective Type One tier examination for the post of Assistant teacher, primary post code 71/09 and 101/12 on 25.08.2013.
- 2. The answer keys of the questions in respect of the series A, B, C and D of above posts are now placed on the Board's website: dsssb.delhigovt.nic.in. Discrepancies relating to answer keys, if any, should be brought to the notice of the Board upto 05.09.2013."

The representations were received and the same were forwarded to the paper setter for comments and the paper setter in consultation with the subject experts finalized the answer keys. In the meantime in OA No. 1656/2014 this Tribunal vide order dated 26.09.2014 gave liberty to the

applicant in that case to make detailed representation within one week and further directed the respondents to act on the said representation in consultation with the subject experts to decide about the answer keys with respect to question no. 105, 119 and 164 in series A and corresponding question in other series. Accordingly, in compliance with the said order, the respondents published vide notice dated 05.12.2014, the revised answer key with respect to those questions. The relevant portion of the notice is extracted below:-

"In compliance of order/directions of the Hon'ble CAT as passed in OA No. 1656/2014 titled as Ms. Vineeta Vs. GNCTD & Ors, the Board in consultation with the subject experts, has revised the answer key in respect of following questions for information of all concerned.

S.No.	Question numbers in different series				Answer key Uploaded earlier	Revised Answer Key
	A	B	C	D		
1	105	145	172	131	C	D
2.	119	159	186	145	C	B
3	164	104	131	190	D	A

No further correspondence shall be entertained in respect of the answer keys.

This issues with the prior approval of the Competent Authority."

In the said notice dated 05.12.2014, it was clearly stated that no further correspondence shall be entertained in respect of the answer keys. The case of the applicant is that with respect to question no.94 in D series, the answer key published by the respondents is wrong. The further case of the applicant is that because of the publication of the revised answer key vide notice dated 05.12.2014 the answer given by him is rendered wrong and he lost one mark on this account. His further case is that the cut off marks was 141.50 whereas he has secured 139.75 marks and if

the answers given by him are treated as correct his marks shall increase and consequently he would be getting more than cut off marks making him eligible for getting selected. He made representation on 18.12.2014. In support of his contention, the counsel for the applicant relied upon the law laid down by the Hon'ble Supreme Court in the case of **Manish Ujwal and Ors. Vs. Maharishi Dayanand Saraswati** (JT 2005 (8) SC 382).

4. The counsel for the respondents equally vehemently and strenuously contended that by the above said notice dated 29.08.2013 the applicant had an opportunity to make representation about the answer key upto 5.09.2013, but he did not make any representation before 05.09.2013 as such in the circumstances, the applicant has no right to make any representation subsequently, whereas he made representation on 18.12.2014 which cannot be entertained. He further submitted that the revised answer keys were published with respect to question no.105, 119 and 164, as stated above, in compliance with the order of this Tribunal in OA 1656/2014 passed on 26.09.2014. Accordingly, the respondents issued notice on 05.12.20014 and in the said notice it was clearly stated that no further correspondence shall be entertained with respect to answer keys and in view of these facts there is no merit in the case of the applicant. In support of his contention, the counsel for the respondents relied upon the order dated 02.02.2018 passed by this Tribunal in OA 2441/2017 dated 02.02.2018 (**Mahesh Kumar Vs. Govt. of NCT Delhi through the Principal Secretary and another**). In the said order dated 02.02.2018, this Tribunal referred to the judgment relied upon by the counsel for the applicant and also referred to the following judgments of the Hon'ble Supreme Court:

- “1. **Himachal Prades Public Service Commission Vs. Mukesh Thakur and Another (2010) 6 SCC 759)**
2. **Pramod Kumar Srivastava V. Bihar Public Service Commission (2004) 6 SCC 714).**
3. **Ran Vijay Singh & Ors Vs. State of U.P. & Ors.**
(Civil Appeal No. 367 of 2017)
3. **Rajesh Kumar & Ors Vs. State of Bihar & Ors** (Civil Appeal Nos. 2525-2516 and connected Civil Appeal No. 2517 of 2013 in the case of **Abhishek Kumar and Ors Vs. State of Bihar and Ors.**

In the said OA this Tribunal vide order dated 02.02.2018 after considering all the above said judgment held that re-evaluation is not permissible in the absence of any rule and they have further held that if the applicant fails to avail the opportunity regarding challenging the answer key by not to make any representation as per the opportunity given to him, he cannot be permitted to challenge the answer keys. The relevant portion of the order is extracted below:-

“23.....The law is settled by the Apex Court that no re-evaluation is permissible in absence of a rule, and on that count no relief can be granted to the applicant.

24. Additionally, the respondents have provided the opportunity to all the candidates to challenge the answer key up to 3rd of July, 2017 up to 5.00pm. The applicant did not avail the opportunity and never challenged the answer key or sought its rectification within the prescribed time and through the prescribed mode, i.e. through e-challenge module. Subsequent representation of the applicant after the final result is declared would not have been entertained by the respondents and we are also of the opinion that no challenge can be entertained unless made in the prescribed time and manner. It is settled law that where law requires a thing to be done in a particular manner it can only be done in that manner and not otherwise. For this reason as well, the applicant is not entitled to the relief claimed.”

5. In the facts and circumstances of the case referred to above and in view of the law laid down by the Hon'ble Supreme Court which has been summarized by the above said order dated 02.02.2018 of this Tribunal, we are of the opinion that OA is devoid of merit. Accordingly, the OA is dismissed. MA, if any, pending stands disposed of. No order as to costs.

(A.K.Bishnoi)
Member (A)

(S.N.Terdal)
Member (J)

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