

CENTRAL ADMINISTRATIVE TRIBUNAL

KOLKATA BENCH

Original Application No. 1077 of 2015

Date of Decision: 20.11.19

THE HON'BLE MRS. MANJULA DAS, JUDICIAL MEMBER
THE HON'BLE MR. N. NEHSIAL, ADMINISTRATIVE MEMBER

Shri Progyadyuti Dutta,
son of Subodh Kumar Dutta,
aged about 38 years working as Upper
Division Clerk in Ordnance Factory, Dum
Dum, Kolkata at Establishment Section,
residing at E-45, Sundia Housing Estate, P.O.
Jagaddal, Dist. 24-Pgs. (N), Pin : 743125. ...

Applicant

By Advocate Mr.S.K.Datta

-VS-

1. Union of India through the Secretary to the Govt. of India, Ministry of Defence, Department of Defence Production, South Block, New Delhi – 110001.
2. The Chairman, Ordnance Factory Board/Director General, Ordnance Factories, 10A, S.K. Bose Road, Kolkata – 700001.
3. The Principal Director, Ordnance Factories Institute of Learning, Ambarnath, Pin : 421502.
4. The Principal Director, Govt. of India, Ministry of Defence, Ordnance Factory Institute of Learning, Ichhapore – 743144.



5. The General Manager, Ordnance Factory, Dum Dum, Kolkata – 700028.
6. Shri Amit Gupta, Chargeman (NT/Store), Ordnance Factory, Dum Dum, Kolkata – 700028.

...Respondents

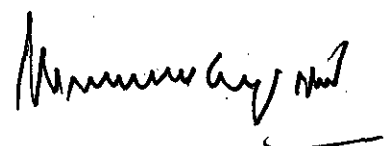
By Advocate Mr.A.Mondal

ORDER

Mr.N.Neihsal), Administrative Member

The applicant has filed this O.A. under Section 19 of the Administrative Tribunals Act 1985, with the following reliefs:-

- 8.a) An order quashing and/or setting aside the result of the Limited Departmental Competitive Examination for 2011-12 for filling up the post of Chargeman/Tech. & Non-tech (Stores & OTS) held as per Ordnance Factory Board letter dated 05.08.2011 as well as order quashing and/or setting aside the purported speaking orders dated 23.06.2014 and 11.07.2014 passed by the Respondent No. 3.
- b) An order directing the respondents to settle the grievance of the applicant as per his representations and to set the wrong assessment made in respect of the applicant.
- c) An order directing the respondents to make a review and prepare a fresh result after making proper assessment of the answer scripts of the applicant by setting right the irregularities in the matter of assessment and evaluation as pointed out by the applicant and further directing the respondents to make a fresh result and to grant the applicant appointment to the post of Chargeman for which the Limited Departmental Competitive Examination, 2011-12 was held from the date when the private respondent was granted such appointment after recalling the appointment of the private respondent.
- d) An order holding that the wrong answers given in the model answer and wrong assessment based on such



model answer made in respect of the applicant are not sustainable and liable to be set right.

e) An order directing the respondents to grant all consequential benefits to the applicant.

f) An order directing the respondents to produce/cause production of all relevant records.

g) Any other order or further order/orders as to this Hon'ble Tribunal may seem fit and proper."

2. Mr.S.K.Datta, learned counsel for the applicant has submitted Legal provisions as under:

" a) For that acts or omissions on the part of the respondents concerned in the matter of assessment of the answer scripts of the applicant are totally arbitrary and irregular.

b) That the answer scripts of the applicant were not properly assessed and evaluated for which the applicant was deprived of his due appointment to the post of Chageman.

c) For that non settlement of the case of the applicant and/or grievance of the applicant is neither bonafide nor justified in as much as in clear violation of rights guaranteed under Article 14 of the Constitution of India.

d) That the non-settlement of the case of the applicant has been causing recurring loss to the applicant financially and otherwise.

e) That there was no justification and/or bonafide reason in not setting the case of the applicant although there were apparent irregularities in the matter of assessment and evaluation of the answer scripts of the applicant.

f) That the denial of appointment of the applicant to the post of Chageman due to irregular assessment of the answer scripts of the applicant is totally arbitrary and illegal.

g) That the purported speaking orders have been passed in colourable exercise of power and those are not sustainable in law as well as on facts.

h) That the reasons assigned in the purported speaking orders to deny redress to the applicant are neither bonafide nor lawful in as much as arbitrary and tainted with malice."

3. The respondents filed reply/written statement on 25.8.2016 and the applicant filed rejoinder to the written statement on 16.11.2016.

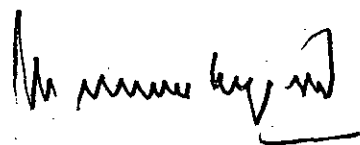
4. This is a second round of litigation. In the previous O.A. No350/00438/2014, This Tribunal directed as under.

" Heard Ld.counsel appearing for both the parties.

2. The representation filed against the merit assessment, on the basis of Limited Departmental Competitive Examination, had not been considered by the respondents. The applicant is aggrieved on the issue that the written examination has not been properly assessed.

3. Since the representation has been filed and the issue is not on the basis of factual matrix of the matter about consideration of the answer script, we are of the view that at this present moment we are not inclined to exercise power of review save and except to pass a direction to respondents to dispose of the representation annexed at Annexure-A/14 within four weeks from this date and a reasoned order be passed within two weeks thereafter. We order accordingly. It is made clear that we have not gone into the merits of the case. However, all points are kept open for adjudication by the concerned respondents. Application thus stands disposed of."

5. Respondents accordingly, disposed of the representation of the applicant vide their order No.8600/OFILAM/CAT/PD/2014 dated 23.6.2014 and order No.8600/OFILAM /CAT/PD/2014 dated 11.7.2014.



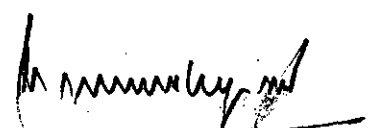
6. The basic grievance of the applicant is that in the departmental examination held on 2011-12 for appointment of Chargeman, in the office of the respondent No.5, the applicant secured 183 marks and Shri Amit Gupta, Respondent No.6 secured 186 marks. As such, Respondent No.6 was not given appointment as Chargeman. However, the applicant asked for certain information under RTI ACT regarding the examination of the answer scripts of the applicant and a copy of the model answer keys. After going through the information as contained in these documents, he claimed that he should have been given the appointment, instead of Respondent No.6. However, this has been strongly contested by the respondents authorities in the written statement, in reply to the facts of the case, as stated in the Para 11(a) to 11(s). It is observed that the respondents have not admitted allegations in their written statement that there was any wrong model answer key. The respondents also contested the authority on which the applicant is basing upon his claim of the right answers, as given by him i.e "Swamy's Hand Book, 2014, citing the disclaimer as




contained in the Hand Book itself. The respondents also have brought in their speaking order that in a similar case, the Hon'ble CAT, Calcutta Bench has rejected and dismissed the O.A.No.908 of 2012 filed by Shri Pratap Chakraborty, LDC/ Rifle Factory, Ishapore, against the result of LDCE 2011 as Under:

" In the absence of any provision regarding re-evaluation of the answer scripts for LDCE examination the O.A. is not maintainable. It is dismissed under Section 19(3) of the AT Act, 1985. "

7. Keeping in view of the above, and also fact that the applicant has failed to bring out that his case is entirely difference from that of Shri Pratap Chakraborty in O.A.No.908 of 2012 which has already been dismissed by the Hon'ble CAT, of this Bench, we are not in a position to take a divergent view on the same issue and give a different order in this O.A. This is particularly, more so, keeping in view of the fact that the respondent authorities have effectively contested the claim of the applicant on the substance of dispute and challenged the very authority on which the applicant's claim of giving the right answers.



8. As such, O.A. is liable to be dismissed. Accordingly,
O.A. is dismissed. No order as to costs.


(N.NEIHIAL)
ADMINISTRATIVE MEMBER


(MANJULA DAS)
JUDICIAL MEMBER

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