
(2010) 04 DEL CK 0247
In the Delhi High Court
Case No : WP (C) No. 2295 of 2010

Anil Khatri

APPELLANT

Vs

Director/Examination Branch and Others

RESPONDENT

Date of Decision : 08-04-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 04 DEL CK 0247

Hon'ble Judges : Mool Chand Garg, J;Anil Kumar, J

Bench : Division Bench

Advocate : Anil Hooda, for the Appellant;

Final Decision : Dismissed

Judgement

Anil Kumar, J.—The petitioner who had appeared in S.O.G. Examination and had not qualified allegedly on the ground that there was a printing mistake in question No.4 in one of the paper as instead of "Selling Price", the words printed were "Selling Expenses" had claimed grace marks and promotion pursuant thereto.

2. The petitioner had filed an O.A No.1956/2008 in respect of S.O.G. Examination and pursuant to order dated 5th May, 2009 it was held that Section Officer Grade Examination was a professional examination for departmental promotion to the higher Grade in the Indian Audit and Accounts Department, and as there was no provision for grace marks, the representation made by the petitioner could not be accepted.

3. The petitioner after obtaining information under "Right to Information Act, 2005 regarding the said question No.4 contended that there was a mistake, and consequently, the petitioner had been deprived of 15 marks, and other candidates had qualified it by attempting this question and were awarded full marks and on refusal of the respondents to award 15 marks, the petitioner filed another O.A. No. 1556 of 2009 titled as "Anil Khatri v. Director/Examination

Branch and others" before the Central Administrative Tribunal, Principal Bench, New Delhi which was also dismissed by the order dated 3rd December, 2009, which is impugned by the petitioner before this Court in the present writ petition.

4. The learned counsel for the petitioner has emphasized that the petitioner is entitled for 15 grace marks on account of the printing mistake because of which the words "Selling Price" were printed as "Selling Expenses". The Tribunal has considered that the examination was a professional examination, and consequently, the petitioner ought to have detected the mistake, as other candidates despite the printing mistake attempted the question correctly. It was also noticed by the Tribunal that question No.4 had another alternative and if in one of the alternative of question No.4, there was a printing mistake, the petitioner ought to have attempted the other alternative question which did not have any mistake.

5. The Tribunal also accepted the plea of the respondents that this printing mistake should have been detected by the petitioner as the printing mistake was decipherable on the basis of basic knowledge on construing the entire question. The Tribunal also accepted the plea of the respondents that since there was no provision for grace marks, therefore, the petitioner is not entitled for 15 grace marks as had been claimed by him.

6. The learned counsel for the petitioner is unable to show any provision or precedent which shall entitle the petitioner for grace marks. In absence of any rule, regulation or office memorandum in this regard, the petitioner cannot be awarded grace marks. In any case, since the printing mistake could be detected on the basis of basic knowledge and should have been detected by the petitioner, as other candidates who detected the mistake and correctly solved the question paper, the petitioner cannot contend that he is entitled for grace marks in the present facts and circumstances.

7. The Tribunal has also considered the case of the petitioner without considering his performance in respect of question No. 4 and by not considering the marks allotted to question No.4 which had printing mistake.

8. The learned counsel for the petitioner has not disputed that without considering the marks for question which had the printing mistake, the applicant still could not qualify the examination on the basis of criteria under which the question with printing mistake could be eliminated. In the circumstances, the plea of the petitioner to grant 15 grace marks cannot be sustained nor the petitioner is entitled for promotion in the facts and circumstances. The learned counsel for the petitioner is unable to show any cogent ground which will entitle the petitioner for 15 marks as grace marks, and consequent thereto for his promotion. In the circumstances, this Court does not find any illegality or irregularity in the order of the Tribunal which shall require any interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. The writ petition is without any merit, and it is, therefore, dismissed.