

(2013) 11 KAR CK 0273

In the Karnataka High Court

Case No : Writ Petition No's. 30637-30639 of 2013

Bharath Sanchar Nigam Ltd.

APPELLANT

Vs

Sri Pundalik and Smt. Drakshayani

RESPONDENT

Date of Decision : 25-11-2013

Acts Referred:

Citation : (2013) 11 KAR CK 0273

Hon'ble Judges : Mohan M. Shantana Goudar, J;K.N. Phaneendra, J

Bench : Division Bench

Advocate : N. Amaresh, for the Appellant;

Final Decision : Allowed

Judgement

Mohan M. Shantana Goudar, J.—Though the respondents are served, they remained unrepresented.

Heard the petitioners' counsel and perused the records.

These writ petitions are preferred against the order passed by the Central Administrative Tribunal, Bangalore Bench, Bangalore in O.A. No. 180/2011.

2. The records reveal that the petitioner-Department has issued notification to conduct departmental/internal competitive examinations for the post of Junior Accounts Officer, against 40% quota earmarked for in-service candidates, on 17.8.2009. The examinations were held during the period from 4.1.2010 to 6.1.2010. The petitioner-Department published the list of marks secured by the respondents on 7.4.2010. Respondent No. 1 fell short of requisite 7 marks and respondent No. 2 fell short by 6 marks. In that regard, respondents 1 and 2 made representation to the petitioners requesting to reevaluate their answer scripts. The petitioners issued an endorsement on 27/29.1.2011 rejecting the request of the respondents for revaluation. Questioning such endorsement, respondents herein approached the Central Administrative Tribunal in O.A. No. 180/2011, which came to be allowed by the impugned order.

3. The Tribunal has assumed that the petitioners herein have admitted their guilt. In paragraph-2 of the impugned order, the Tribunal has observed that no one can be allowed to rest under a laurel after admitting his mistake; if a mistake has been definitely caused, whether the Rules permit such correction of infraction or not, has to be remedied.

If the mistake is admitted by the petitioner-Department, definitely, the Tribunal would have been justified in observing so. But in the matter on hand, nothing is admitted by the petitioners.

4. It is a simple request of the respondents to reevaluate their answer scripts which has been rejected by the petitioners based on the Rules. Endorsement issued by the petitioners rejecting prayer of the respondents clearly reveals that revaluation of the answer scripts is not permissible as per Rule 15 of Appendix 37 of P & T Manual Vol. (IV). Rule 15 of the said Manual reads thus:--

15. Revaluation of answer books Revaluation of answer scripts is not permissible in any case or under any circumstances.

Since Rules of the petitioner-Department prohibit the petitioners from revaluation of answer scripts in any case or under any circumstances, the petitioners are justified in refusing the request of the respondents. The Tribunal should not have been interfered with such matters.

Since we find that the order of the Tribunal is without any basis, the same is liable to be quashed.

It is also relevant to note that the Tribunal has relied upon the order of Cuttack Bench passed in O.A. No. 443/2010, while coming to the conclusion. We have perused the said order passed by the Cuttack Bench in O.A. No. 443/2010. The same does not relate to the similar issue on hand. The issue in that matter was for allotment of grace marks. Since Rules of the petitioner-Department permitted to allot grace marks, Cuttack Bench directed the petitioner-Department to provide grace marks to the applicants in that matter.

In view of the above, observations and the conclusion reached by the Cuttack Bench in O.A. No. 443/2010 should not have been relied upon by the Tribunal in this matter since the issue is totally different. Hence, the impugned order passed by the Tribunal cannot be sustained and the same is liable to be quashed.

Our view is fortified by the observations made by High Court of Delhi, in the case of Suresh Kumar v. Bharat Sanchar Nigam Ltd., in W.P.(C) No. 3712/2011, disposed of on 27.5.2011.

Accordingly, the following order is made:--

Impugned order dated 13.2.2012 passed by the Central Administrative Tribunal, in O.A No. 180/2011 stands quashed. Consequently, the order dated 22.2.2013 passed in Review Application No. 16/2012, also stands quashed. The endorsement issued by the petitioner-Department on 27/29.1.2011 is held to be

just and proper.

Petitions are allowed accordingly.