
(2019) 08 CAT CK 0035

In the Central Administrative Tribunal

Case No : Original Application No. 2486 Of 2018

Harsh Singh And Ors

APPELLANT

Vs

Union Of India, Through And Ors

RESPONDENT

Date of Decision : 13-08-2019

Acts Referred:

Citation : (2019) 08 CAT CK 0035

Hon'ble Judges : S.N. Terdal, J;A.K. Bishnoi, Member (A)

Bench : Division Bench

Advocate : M.S. Saini, Shailendra Tiwary

Final Decision : Disposed Off

Judgement

S.N. Terdal, Member, J

1. We have heard Mr. M.S.Saini, counsel for applicants and Mr. Shailendra Tiwary, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicants have prayed for the following reliefs:

"i) Call for the records containing the answer sheets of the applicants with related fly leaves and the entire selection proceedings for fair adjudication by the Court:

ii) Quash and set aside the impugned order dated 29.05.2018 to the extent it excludes the names of the applicants from the select list of successful candidates in the written test thereby depriving them of their legitimate right to consideration for promotion;

iii) Quash and set aside the impugned order dated 11.06.2018 to the extent it excludes the names of the applicants from the final panel;

iv). Consequently direct the respondents to restore the candidature of the applicants and to process the case of the applicants for consideration by DPC in

pursuance of staff notice dated 6.12.2017 (Annexure A-4); and,

v) Issue promotion orders of the applicants by including their names in the panel dated 11.06.2018 with all consequential benefits of pay and allowances and seniority etc. and,

vi) Allow the OA with costs;

vii) Pass any other order as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."

3. The relevant facts of the case are that the applicants were Group 'D' employees and they applied for Group 'C' post of Clerk-cum-Typist in Pay Band (PB) 5200-20200 - Grade Pay (GP) 1900 Matrix level 2 against 16-2/3% promotee quota of the Headquarter of Northern Railway. In the result notice dated 06.12.2017 they were shown as qualified in the written test held on 18.11.2017 for the purpose of holding further DPC. But, however, subsequently vide another notice dated 29.05.2018 the earlier select list of 6.12.2017 was cancelled and a new list was issued in which the name of applicants were not shown. Aggrieved by the same, the applicants submitted representations. The representations of the applicants were disposed of by an identical orders dated 31.05.2018 with respect to each of the applicants. The reasons given while disposing of the representation is that while scrutinizing of selection proceeding records, it was found that the applicants have clearly violated the rules which were prescribed on the fly lead itself. The relevant portion of the letter dated 31.05.2018 is extracted below:-

"The result of the written test held on 18.11.2017, to fill up the posts of Clerk cum typist GP 1900 (L-02) against 16.2-3% quota, issued vide this office letter No. 752-E/23/Pt25/EIIIA dt: 06.12.2017, is cancelled due to some discrepancy observed on a preventive check conducted.

The records of selection proceedings were summoned and scrutinized. In your case it was observed that there was a clear violation of rules which were prescribed on fly leaf itself of the answer sheet. These policy guidelines are issued under PS No.12562 which, all candidates are required to follow strictly.

Accordingly the competent authority after a careful consideration of the factual positions as well as rules on the subject directed for cancellation of your candidature. Thereafter modified result issued vide this office letter No. 752-E/23/Pt.25/EIIIA dt: 29.05.2018 after marking some necessary rectification in the list of qualified candidates.

Therefore, though your name appeared in the result issued on 06.12.2017 among successful candidates in the written test, however it has had to be excluded from the result in terms of the letter no. 752-E/23/Pt.25/EIIIA dt: 29.05.2018".

4. The counsel for the applicants vehemently and strenuously contended that the

said letter dated 31.05.2018 does not specify as to what specific rule has been violated by the respective applicants and referring to para 9 of the relevant guidelines which were referred to in the said letter dated 31.05.2018, he submitted that none of the applicants have committed any irregularity in so far as the above said guidelines are concerned, namely, that they had not written their name or roll number in the answers book. As such, the said order dated 31.05.2018 is arbitrary and unreasonable and it be set aside and all the applicants be directed to be appointed.

5. The respondents have filed reply affidavit. In the reply affidavit, they have stated that after the issuance of the select list dated 6.12.2017, a preventive check was carried out by the Vigilance Department and in the said preventive check it was found that some of the candidates including the applicants had revealed their identity in the answers sheet and there was mismatching of coding/decoding as a result the marks obtained by some candidates were assigned to some other candidates. The relevant portion of the counter affidavit is extracted below:-

"6. It is submitted that in the meanwhile a preventive check was carried out and the case was investigated by Vigilance department of N.Rly. They have subsequently submitted their observation to the Pr CPO/N.Rly/HQ. They have found the following discrepancies in the result of the written test of clerk held on 18.11.2017:-

1. The answer sheets of some of the candidates who revealed their identity or left some clue in the answer sheets were evaluated by the evaluating officer.
2. Further observed that the evaluator also awarded marks in objective type questions where candidate had resorted cutting and overwriting.
3. At the time of decoding of evaluation of answer sheets of 08 candidates the coding/decoding officer mismatched the names on fly leaves with code on answer sheets and wrote wrong names in decoded result. This led to marks being shown against 8 candidates which actually were secured by some other candidates.
7. It is submitted that accordingly, GM vigilance has asked Principal CPO, Northern Railway to take decision as per observation made by vigilance.
8. It is submitted that in between the coding decoding officer also scrutinized the result again and found that while decoding of the result some discrepancy occurred in the result due to assembling of the decoded result in order on excel sheet. The mistake occurred inadvertently while assembling of the decoded result in ascending/descending orders on excel sheet in computer as the error occurred not on scattered basis but in sequence i.e. from Roll No. 82 to 89. The detail of this error is given below:

Roll

Name

Code

Marks

Remarks

No.

Correct

Wrongly

Correct

Wrongly

Code

Mentioned

Marks

Mentioned

Code

marks

82

Shyam Kumar

S-106

S-72

39

35

Failed.

Required

to

change

83

Sona Lal Pal

S-72

S-88

35

16.5

Failed.

Required

to

change

84

Mukesh

Kr.

S-109

S-71

65

Not

Passed.

His

name

Netwal

evaluated

should

be

interpolated in result

.

85

Banwari

Lal

S-102

S-115

68

55

Passed

with

relaxed

Meena(ST)
standard. Should be
shown
against
General
Standards.
Needs modification.

86

Inderjit Kumar

S-88

S-68

16.5

37.5

Failed. Required

no

change.

87

Avinash Kumar

S-71

S-106

-

39

Not

evaluated.

Required no change.

88.

Ram

Niwas

S-115

S-109

55

65

Pass with

relaxed

Meena (ST)

standard but

shown

wrongly

as

general

standards.

Needs

Modification.

89

Udaivir Singh

S-68

S-102

37.5

68

Failed. He has been

shown as passed.

His name should be

deleted.

9. It is submitted that due to this error, the result needed the following amendment. The officer immediately brought this mistake to the higher authorities and put up the case as there was following amendment needed:-

1. Name of Shri Mukesh Kumar Netwal (Roll No. 88) to be incorporated in the result of qualified candidates.

2. Name of Shri Banwari Lal (ST) to be shown against the candidates passed with the General Standard.

3. Name of Ram Niwas Meena (ST) to be shown against the passed candidates

with relaxed standard instead of General Standards.

4. Name of Shri Udaivir Singh be deleted from the result of the list of the passed candidates.

10. It is submitted that as per findings of observations of Vigilance, the case was scrutinized in detail by the authorities. It was decided that the modified result be issued after rectifying the following:-

A). The error occurred due to mismatch of coding is rectified.

B). Those who have revealed their identity or given any clue in the answer should be excluded from the qualifying list.

C). Marks were awarded on objective type questions where candidates have resorted to cutting and overwriting by the evaluator. This lapse is to be ignored as authority found no malafide intention or any discretion and this was done uniformly."

At the time of hearing, the counsel for the respondents stated that with respect to each of the applicants, there are specific facts in a said process regarding they having revealed their identity in the answers sheet and he prayed for time to produce the original records for the perusal of the Court. Be that as it may, from the perusal of the letter dated 31.05.2018, it is clear that the said letter does not give details as to which specific guidelines/rules each of the respective applicants has violated, as such the said letter is vague and it requires to be set aside. But, however, in view of the facts and circumstances of the case, we give liberty to each of the applicants to submit a comprehensive representation to the respondents within one month from the date of receipt of copy of this order. Within two months, thereafter the respondents shall dispose of the representation of each of them by giving detailed facts and pass a reasoned and speaking order. In case the applicants are aggrieved they may seek relief as per law.

6. Accordingly, the OA is disposed of. No order as to costs.