
(2018) 01 CAT CK 0059

In the Central Administrative Tribunal

Case No : Original Application No. 1030 Of 2013

Lal Singh

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 12-01-2018

Acts Referred:

Citation : (2018) 01 CAT CK 0059

Hon'ble Judges : Raj Vir Sharma, Member (J); Nita Chowdhury, Member (A)

Bench : Division Bench

Advocate : V.K. Sharma, Aishwarya Dobhal, Hilal Haidar

Final Decision : Dismissed

Judgement

Raj Vir Sharma, J

1. Brief facts of the applicant's case are that he was a candidate for selection and recruitment to the post of LDC in the respondent- Department pursuant to the Employment Notice No. EN 39/57 (EN 28/55) which was published in the Employment News dated 8 - 14 October 2011. On the basis of the call letter (Annexure A/1) issued by the respondent-Department, he appeared in the written examination (preliminary) on 5.8.2012 conducted by the respondent-Department at Visakhapatnam, vide Roll No.30027787. As his result of the said written examination was not communicated to him, he sought for information under the RTI Act, by making an application dated 17.10.2012 (Annexure A/16). The concerned PIO, vide letter dated 26.11.2012 (Annexure A/17), informed him that the result of written examination (preliminary) was sent to those candidates who qualified for written examination (main), and that he could not find place in the list of qualified candidates due to low merit position. He again made an application dated 5.12.2012 seeking further information under the RTI Act, in response to which the PIO of the respondent-Department, vide letter dated 18.2.2013 (Annexure A/18), informed him that the records of the respondent-Department revealed that no candidate against Roll No.30027787 appeared in

the examination held on 5.8.2012. The applicant also made an application dated 5.12.2012 to the Chief Administrative Officer, Command Civilian Personnel Officer (respondent no.2) seeking further information under the RTI Act, in response to which respondent no.2, vide his letter dated 4.3.2013 (Annexure A/19), informed him that the information was already provided to him by the PIO that he did not qualify in the written examination (preliminary) due to low merit position. After receiving the above information under the RTI Act, the applicant filed the present O.A. on 21.3.2013 seeking the following reliefs:

"(a) That Respondent may kindly be directed to furnish Original Record to his appearance in Preliminary Examination conducted by Respondent No.2 on 05.08.2012 and in the event he is held to have qualified the test, the remaining procedural formalities may be followed and on his qualifying the same, he may be ordered appointment for the notified post.

(b) That the Advertisement (Annexure A-2) issued by Respondent No.2, for various posts not in accordance with the Govt. of India's orders (Annexure A-20, Annexure-21 and Annexure A-22) issued from time to time, the respondents may be made answerable for such lapses as per the law and appropriate orders as deemed fit and proper may kindly be passed by Hon'ble Tribunal in the instant case.

(c) Allow any other and further relief which this Hon'ble Tribunal may be deemed fit and proper in the circumstances of this case in order to meet the ends of justice in this case.

And

(d) Allow costs of this Application in favour of the humble applicant."

2. It has been asserted by the respondents that though the call letter was issued to the applicant with Roll No.30027787 to appear in the written examination (preliminary) held on 5.8.2012, the records revealed that the applicant did not appear in the examination held on 5.8.2012. The results of the written examination (preliminary) were published through Navy Website on 17.9.2012 for information of all. In addition, the selected candidates were informed of their results through individual letters. The information provided, vide letter dated 18.2.2013 and letter dated 4.3.2013, was same and there was no contradiction. The information provided under letter dated 26.11.2012 was modified/corrected by the PIO on the basis of records, vide letter dated 18.2.2013. In view of the above, the O.A. is liable to be dismissed.

3. We have carefully perused the records and have heard Mr.V.K.Sharma, learned counsel appearing for the applicant, and Ms.Aishwarya Dobhal, proxy for Mr.Hilal Haider, learned counsel appearing for the respondents.

4. Mr.V.K.Sharma, learned counsel appearing for the applicant took us through the letter dated 26.11.2012 (Annexure A/17) issued by the PIO of respondent no.2, letter dated 18.2.2013 (Annexure A/18) issued by the PIO of respondent

no.2, and letter dated 4.3.2013 (Annexure A/19) issued by respondent no.2, and submitted that when the PIO, vide his letter dated 26.11.2012 (Annexure A17), informed the applicant that his name did not find place in the list of qualified candidates due to low merit position, the subsequent letter dated 18.2.2013 (Annexure A/18) issued by the same PIO informing the applicant that no candidate with Roll NO.30027787 appeared in the written examination (preliminary) held on 5.8.2012 is liable to be discarded. Thus, the applicant having appeared in the written examination (preliminary) on 5.8.2012, the respondents ought to have declared the applicant's result and, depending on the marks scored by him in the said examination, processed his candidature for selection and recruitment to the post of LDC pursuant to the Employment Notice in question.

5. Per contra, Ms.Aishwarya Dobhal, learned counsel appearing for the respondents, submitted that the information provided by the PIO of the respondent no.2, vide letter dated 26.11.2012, was modified and/or corrected by the same PIO of the respondent no.2 on the basis of records, vide letter dated 18.2.2013. The applicant cannot be allowed to claim that he appeared in the written examination (preliminary) on 5.8.2012 solely on the basis of an incorrect information provided by the concerned PIO. When the applicant did not at all appear in the written examination (preliminary) on 5.8.2012, the question of publishing his results of the said examination or of processing his candidature did not arise.

6. After having given our thoughtful consideration to the rival contentions, we have found no substance in the contentions of the applicant. The applicant has not produced before this Tribunal any other contemporaneous documents, such as, invigilator's acknowledgement, attendance sheet of the candidates who appeared in the written examination (preliminary) held on 5.8.2012 from the very same centre of examination, in which he claimed to have appeared. By the call letter (Annexure A/1), the applicant was instructed to appear for written examination along with the call letter (in original), and Hall Ticket (duly filled with attested photograph). He has also not produced before this Tribunal the Hall Ticket duly filled with attested photograph which he was required to submit at the examination centre. Thus, the applicant cannot be said to have substantiated his plea that he appeared in the written examination (preliminary) held on 5.8.2012 at Visakhapatnam. As has been rightly contended by the respondents, the applicant's claim that he appeared in the said examination solely on the basis of information provided by the PIO of respondent no.2, vide letter dated 26.11.2012, which was corrected/corrected by the same PIO, vide his letter dated 18.2.2013, is untenable.

7. Furthermore, it transpires from the records that the written examination (main) was conducted by the respondents on 14.10.2012. The provisionally selected candidates were called for typing test and interview. The typing test and interview were conducted during 10.12.2012 to 21.12.2012 and the final results

of the recruitment examination were declared on 18.2.2013 and the selected candidates were informed of the same by the respondents through registered post.

8. In the above view of the matter, we do not find any merit in the O.A. Accordingly, the O.A. is dismissed. No costs.