
(2018) 12 CAT CK 0177
In the Central Administrative Tribunal
Case No : Original Application No. 3908 Of 2013

Manoj Saklani

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 03-12-2018

Acts Referred:

Citation : (2018) 12 CAT CK 0177

Hon'ble Judges : V. Ajay Kumar, J; A.K. Bishnoi, Member (A)

Bench : Division Bench

Advocate : Jagriti Singh, N.K. Pant, U. Srivastava

Final Decision : Dismissed

Judgement

V. Ajay Kumar, J

1. The applicant, while working as Electrician, participated in the Limited Departmental Examination conducted for promotion to the post of Chargeman (Electrical) during the year 2010. As per Annexure A-4, dated 16.08.2010, 28 persons, including the applicant participated in the said examination by way of their first attempt and whereas 7 more persons participated as their second attempt. The 2nd respondent-Ordnance Factories Institute of Learning, Dehradun, which conducted the said exam, vide Annexure A-5, declared the results as against the single post of Chargeman (Electrical). As per the said results, the applicant having secured 139 marks stood 2nd and whereas the 5th respondent, who has secured 139.5 marks, was shown at Sl.No.1 and accordingly, the respondents promoted the 5th respondent as Chargeman (Electrical), vide their impugned order dated 20.10.2010. Aggrieved by the said action, the applicant filed the instant OA.

2. The applicant submits that after the respondents declared the results of the departmental examination vide Annexure A-5, on his representation, he was allowed to verify his answer sheets and after verifying the same, he found that due to the irregularities in framing certain questions and in preparing the answer

key and evaluating the same, he was given less marks and had the respondents rectified the said mistakes, he would have got more marks than the 5th respondent and in such an event, he would be entitled for promotion as Chargeman (Electrical).

3. The applicant enumerated his grievances with regard to the evaluation of his answer sheets and not awarding of deserving marks in respect of certain questions of the examination in the OA, as under:-

" That the grievance of the Applicant with regard to the erroneous checking and non awarding of deserving marks to him are enumerated as under:-

a) Question no. 22 of the General Knowledge paper stated 'which Act provides for Layoff and Retrenchment Compensation?' The Applicant had marked option D i.e. Industrial Disputes Act, however no marks had been awarded to him. On the contrary in the letter dated 02.03.2012 it has been stated that no marks had been awarded to the Applicant in this question as the correct answer is option B i.e. Workman's Compensation Act. The Co-Participant Shri Pankaj Sharma has however been awarded one mark for the answer given by him i.e. option B - Workman's Compensation Act. It is therefore, submitted that in this question the Applicant is entitled to 'ONE' mark and Shri Pankaj Sharma is entitled to 'ZERO' marks as the answer given by the Applicant was correct and that given by the Co-Participant was wrong. However, this fact has been deliberately ignored to facilitate Shri Pankaj Sharma.

b) Question No. 35 in General Engineering and Electrical Engineering paper posed 'Ampere hour is the amount of?' The Applicant had opted for option A i.e. quantity of electricity which is the correct answer. As per letter dated 02.03.2012 the correct answer should have been option D i.e. energy. It is submitted that the letter dated 02.03.2012 has wrongly stated that the correct answer is energy. It is therefore, submitted that in this question the Applicant ought to have been awarded 'ONE' which has not been given to him. A true copy of the relevant extract of the book "Electrical and Mechanical Engineering" by Mehta and Singh showing the correct answer to the aforesaid question is annexed herewith and marked as ANNEXURE - A/15.

c) Question No. 30 of General Knowledge posed that 'which of the options is Geothermal Energy?' Both the Applicant and Shri Pankaj Sharma had answered wrongly. Hence both of them should have been marked 'ZERO' but as per the report dated 02.03.2012, Shri Pankaj Sharma has been awarded 'ONE' mark whereas the Applicant has been marked 'ZERO'. According to the letter dated 08.09.2010 there was a typographical error in the Hindi Paper with regard to question no. 30 hence all the candidates were to be awarded 'ONE' mark for this question irrespective of whether he has attempted it or not. In view of above the Applicant would also be entitled to be marked 'ONE' mark for attempting question no. 30.

d) Question no. 35 of the General Knowledge paper posed the question 'who is

the winner of Dada Saheb Phalke Award given in 2009?' the Applicant had opted for option B i.e. Rajesh Khanna for which he was given 'ZERO' marks. Shri Pankaj Sharma had however, marked option A i.e. Manoj Kumar and was awarded 'ONE' mark. It is submitted that as per the book of Lucent Publication on General Knowledge in 2009 April Manoj Kumar was not given the Dada Saheb Phalke Award. It is pertinent to mention that the prestigious Dada Saheb Phalke Award is awarded to only one person in a year and in the year 2009 Manoj Kumar was not awarded the Dada Saheb Phalke Award. A copy of the extract of the book of General Knowledge by Lucent Publication as well as competition success review 2010 are annexed herewith and marked as ANNEXURE - A/16.

e) Question No. 69 of the General Engineering and Electrical Engineering paper posed the question 'if a power transformer is operated at very high frequencies, which of the four options would occur?' The Applicant had opted for option A i.e. primary reactance is too much increased whereas Shri Pankaj Sharma opted for option C i.e. Core losses would be excessive. It is submitted that both the answers given by the Applicant and Shri Pankaj Sharma are correct. It is further specified that the renowned formula $X_L = 2 \pi f L$ (Inductive reactance is directly proportional to Frequency of AC supply) it is therefore evident that with the increase of frequency the inductive reactance would also be increased. Therefore, primary reactance of a power transformer would be increased. For further clarification relevant extract of the book "Objective Electrical Technology" by S. Chand and Company is annexed herewith and marked as ANNEXURE - A/17.

f) Question No. 41 of the General Engineering and Electrical Engineering paper has been wrongly framed. It has been stated in the question 'The Electric Lamps 40 W, 220 Volt each are connected in series across 220 Volt, the power consumed by the combination is which of the following options.' It is submitted that although the question says that the electric lamps are connected in series, the number of the lamps have not been mentioned. In the absence of the number of the lamps being specified the power consumed by the combination cannot be identified. In view of the letter dated 08.09.2010 on account of the typological error of the question the candidates should have been compensated with marks. However, no such initiative has been taken by the Respondents which shows there discriminatory attitude and violation of principles of natural justice".

4. The respondents while submitting that this Tribunal, while exercising the power of judicial review, shall not interfere with the framing of question papers or in preparation of answer keys thereto and its evaluation, as the same is done by an Expert Body. Placing reliance on various decisions of the Hon'ble Apex Court, it is submitted that in the instant case, the exam was conducted by the 2nd respondent- Ordnance Factories Institute of Learning, which is entrusted with conducting of examination across various Ordnance Factories in the country and an Expert Body in the field and as the applicant has not alleged any mala fides or violation of any rules, the Tribunal cannot interfere with the action of the

respondents.

5. However, in reply to the specific contentions of the applicant in respect of certain questions, they have answered in their counter as under:-

"Para (xxv) That in reply to para (xvi) of the OA, it is respectfully submitted that.

a) Shri Manoj Saklani had given option D of Question no. 22 of General Knowledge (GK) paper while correct answer as per Answer Key given by OFIL, Ambajhari is option B. Therefore no mark was given to him. Also Shri Pankaj Sharma had given option B of Question no. 22 of General Knowledge (GK) Paper which is the correct answer as per Answer Key given by OFIL. Ambajhari and hence one mark was given to him. This is again upheld by re-evaluation.

b) Regarding question no. 35 of the GE and Electrical Engineering Paper, Shri Manoj Saklani had given answer as option A whereas Correct answer as per Answer Key given by Ordnance Factories Institute of Learning, Ambajhari (Nagpur), which was the nodal agency for conduction of examination, is option D. Therefore no marks was given to Shri Manoj Saklani. Evaluation had been done based on Answer key given by Ordnance Factories Institute of Learning, Ambajhari (Nagpur). This is again upheld by re-evaluation.

c) With regard to question no. 30 of General Knowledge paper, as per OFIL, Ambajhari's Fax no. OFILAJ/9029/Idce-2010, dated 08.09.2010, all candidates who appeared in Hindi medium should be given one mark whether question was attempted or not. Therefore one mark was given to Shri Pankaj Sharma as he attempted General Knowledge paper in Hindi Medium. No mark was given to Shri Manoj Saklani as attempted Knowledge paper in English Medium. This is again upheld by re-evaluation.

d) With regard to question no. 35 of General Knowledge paper, Shri Manoj Saklani had given answer as option B whereas Correct answer as per Answer Key given by Ordnance Factories Institute of Learning, Ambajhari (Nagpur), which was the nodal agency for conduction of examination, is option A. Therefore no mark was given to Shri Manoj Saklani, Pankaj Sharma had given option A of Question no. 35 of General Knowledge (GK) Paper which is the correct answer as per Answer Key given by OFIL, Ambajhari and hence one mark was given to him. This is again upheld by re-evaluation.

e) Regarding question no. 69 of the GE and Electrical Engineering Paper, Shri Manoj Saklani had given answer as option A whereas Correct answer as per Answer Key given by Ordnance Factories Institute of Learning, Ambajhari (Nagpur), which was the nodal agency for conduction of examination, is option C. Therefore no marks was given to Shri Manoj Saklani. Evaluation had been done based on Answer key given by Ordnance Factories Institute of Learning Ambajhari (Nagpur), Shri Pankaj Sharma had given answer as option C which is correct one and one mark had been given to him. This is again upheld by re-evaluation.

f) Regarding question no. 41 of the GE and Electrical Engineering Paper, both Shri Manoj Saklani and Shri Pankaj Sharma had given answer as option B whereas Correct answer as per Answer Key given by Ordnance Factories Institute of Learning, Ambajhari (Nagpur), which was the nodal agency for conduction of examination, is option B. Therefore one mark was given to Shri Manoj Saklani and Shri Pankaj Sharma. Evaluation had been done based on Answer key given by Ordnance Factories Institute of Learning Ambajhari (Nagpur). This is again upheld by re-evaluation."

6. The applicant having participated and selected in the subsequent Departmental Examination in the year 2011, was promoted as Chargeman (Electrical) on 20.07.2012.

7. Heard applicant, who appeared in person and Ms. Jagriti Singh, the learned counsel for respondents No.1 to 4 with Shri N.K. Pant, Junior Works Manager, OFIL, Dehradun and Mr. U. Srivastava, the learned counsel for the respondent No.5 and perused the pleadings on record.

8. We have carefully gone through the contentions raised by the applicant as well as the explanation given by the respondents thereto. We do not find any arbitrary action on the part of the respondents in awarding marks to the counterparts including the applicant. In view of the settled position of law, with regard to the preparation of the answer keys and evaluation of the answer sheets, and in the absence of any allegations of mala fide intention, we do not find any valid reason to interfere with the decision of the Expert Body, i.e., the 2nd respondent-Ordnance Factories Institute of Learning. It is also not the case of the applicant that any of the officials of the Ordnance Factory, in which the applicant as well as the 5th respondent were working at the relevant point of time, have acted in a particular manner to help the 5th respondent.

9. In the circumstances and for the aforesaid reasons, the OA is dismissed. No costs.