
(2019) 01 CAT CK 0092

In the Central Administrative Tribunal

Case No : Original Application No. 3437 Of 2013

Rakesh Kumar

APPELLANT

Vs

Commissioner Of Police And Ors

RESPONDENT

Date of Decision : 17-01-2019

Acts Referred:

Citation : (2019) 01 CAT CK 0092

Hon'ble Judges : Nita Chowdhury, Member (A), S.N. Terdal, J

Bench : Division Bench

Advocate : Ajesh Luthra, Amit Anand

Final Decision : Dismissed

Judgement

S.N. Terdal, J

1. We have heard Mr. Ajesh Luthra, counsel for applicant and Mr. Amit Anand, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicant has prayed for the following reliefs:

" 8.1 To quash and set aside the impugned order dated 16.01.2012 and direct the respondents to declare the applicant selected candidate for appointment to the post of Constable (Driver) in Delhi Police.

8.2 To direct the respondents that the applicant is entitled to four more marks of the correct answers of the questions referred in the OA.

8.3 To declare the action of the respondents in treating the correct answers as wrong answers as illegal and arbitrary.

8.4 To allow the OA with costs. And

8.5 To pass any other order or orders as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice."

3. This is a third round of litigation. The case of the applicant is that he had correctly answers four questions namely question no. 9, 21, 28 and 57 and that, however, the respondents have not evaluated the answers given by him for the above said questions correctly as a result he has secured 71 marks whereas the cut off marks for his category was 73. Thus his case is that if the above said four questions are correctly evaluated and he is given four more marks he was bound to get selected. In the first OA no.2302/2010 vide order dated 22.07.2010, this Tribunal directed the respondents to consider the entire OA as a representation and pass appropriate order and to inform the applicant the decision taken thereon. The respondents passed an order dated 19.04.2011 in compliance of the above said order dated 22.07.2010. Being aggrieved by the fact that in the said order dated 19.04.2011, a specific comment was not made regarding questions No. 9, 21, 28 and 57, the applicant filed OA no. 1891/20911. This Tribunal disposed of OA No. 1891/2011 vide order dated 03.01.2012 directing the respondents to pass a fresh order within two weeks from the date of receipt of the certified copy of the order dated 03.1.1.2012.

4. In compliance of the order 3.01.2012, the respondents passed an order dated 16.01.2012 considering specifically the answers given by the applicant with respect to the above stated questions. The said order dated 16.01.2012 is challenged in the present OA. In the impugned order dated 16.01.2012 it has been stated that for two questions namely 21 and 57 as per the revised answer key the answers given by the applicant were found to be correct and as such he was given two more marks. With respect to question no. 67 and 87 it was found that the answers given by the applicant were not correct as per the revised answer key, as such two marks were deducted. In the counter, the respondents have stated that it is not only for the applicant that revised key with respect to question no. 67 and 87 was applied, but it was applied with respect to all the candidates who had answered those questions wrongly. With respect to question no. 9 and 28 we have examined in detail as to the questions and the answers given by the applicant and the previous answer key and the revised answer key and the supporting material produced by the applicant and the respondents. On the basis of the material examined by us, we are of the opinion that the answers given by the applicant were wrong and as such he could not get any more marks with respect to questions no. 9 and 28. As a result his total marks secured remained 71.

5. The counsel for the applicant vehemently and strenuously contended that since the applicant never raised the issue regarding question no. 67 and 87 rights from 2010, as such the respondents were not justified in reassessing the answers given by him to question no. 67 and 87. The respondents, as stated above, in their counter affidavit specifically stated that the revised answer key with respect to these two questions were applied with respect to every candidates who had answered these two questions wrongly as per the revised key. As such in our opinion the applicant is not subjected to any hostile discrimination. The applicant also has not contended any hostile discrimination

by the respondents in so far as these two questions are concerned.

6. In view of the facts and circumstances narrated above, we are of the opinion that the impugned order dated 16.01.2012 does not require any interference. Accordingly, OA is dismissed. No order as to costs.