

(2012) 11 DEL CK 0045

In the Delhi High Court

Case No : Writ Petition (C) 7207 of 2012, CM 18571 and 18572 of 2012

Sachin Varshney and Another

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 19-11-2012

Acts Referred:

Citation : (2012) 11 DEL CK 0045

Hon'ble Judges : Siddharth Mridul, J;Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : S.D. Singh and Ms. Bharti Tyagi, for the Appellant; Sachin Datta with Ms. Ritika Jhurani, for the Respondent

Final Decision : Dismissed

Judgement

Badar Durrez Ahmed, J.—The learned counsel for the petitioners states that there is a mistake in the papers filed in the sense that the copy of the order dated 16.12.2009 in OA No. 1551/2009 at pages 124 to 126 is not the complete order. We also notice that only the beginning portion of the order has been reproduced at pages 124 to 125 and then there is an extract of paragraph 10. Obviously, this is not the complete order. The learned counsel for the petitioners has handed over a copy of the complete order which is quite dim. However, we have gone through the same. This lapse on the part of the learned counsel for the petitioners is pardoned as we feel that it was an inadvertent mistake. We now come to the merits of the matter. We find that the petitioners are seeking re-evaluation/re-checking of their answer scripts in the LGO Examination 2010 (Group-D) for promotion to Group-C posts. The Tribunal has rejected the prayer of the petitioners on the ground that there are no rules permitting re-evaluation of the answer scripts. On the contrary, the Tribunal has taken note of Clause 15 of Appendix No. 37 of the Postal Manual Volume- IV Rules, relating to the departmental examination. The said Clause-15 reads as under:-

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

2. It is clear that the said clause does not permit re-evaluation of the answer scripts in any case or under any circumstances. This clause/rule has to be read in the backdrop of the Supreme Court's decision in the case of H.P. Public Service Commission Vs. Mukesh Thakur and Another, , wherein the Supreme Court after considering its earlier decisions in the case of Maharashtra State Board of Secondary and Higher Secondary Education & Anr vs. Paritosh Bhupesh Kurmarsheth, AIR 1984 SC 1543, and Pramod Kumar Srivastava Vs. Chairman, Bihar Public Service Commission and Others, , held as under:-

26. A similar view has been reiterated in Dr Muneeb-ul-rehman Haroon and Others Vs. Government of Jammu and Kashmir State and Others, ; Board of Secondary Education Vs. Pravas Ranjan Panda & Anr. (2004) 13 SCC 383 ; The President Board of Secondary Education, Orissa and Another Vs. D. Suvankar and Another, ; The Secretary, West Bengal Council of Higher Secondary Education Vs. Ayan Das and Others, ; and Sahiti and Others Vs. The Chancellor, Dr. N.T.R. University of Health Sciences and Others, .

27. Thus, the law on the subject emerges to the effect that in absence of any provision under the Statute or Statutory Rules/Regulations, the Court should not generally direct revaluation.

3. It is obvious that the Tribunal has arrived at the correct decision inasmuch as there is no rule or regulation permitting re-evaluation of answer scripts insofar as the facts of the present case are concerned. On the contrary, there is a rule prohibiting any re-evaluation of answer scripts. There is no merit in this writ petition.

4. Mr. Sachin Datta appearing on behalf of the respondents submitted that while re-evaluation is not permissible under the rules, the petitioner could have asked for re-totalling under Clause 14 of the said manual. However, that has to be in terms of the procedure prescribed in Clause 14. In case the petitioners move any such application under Clause 14 the same would be considered by the respondents in accordance with the provisions of Rule 14. The writ petition is dismissed with the above directions. All pending applications also stand disposed of.