
(2015) 11 AP CK 0020
In the Andhra Pradesh High Court
Case No : Writ Petition No. 28874 of 2015

Union of India

APPELLANT

Vs

Guduru Raja Surya Praveen

RESPONDENT

Date of Decision : 18-11-2015

Acts Referred:

Citation : (2017) 1 AndhLD 596

Hon'ble Judges : Shri Nooty Ramamohana Rao and Smt. Anis, JJ.

Bench : Division Bench

Advocate : Sri Ravi Cheemalapati, Advocate, for the Respondent No. 1; Sri B. Narayana Reddy, Assistant Solicitor General, for the Petitioners

Final Decision : Dismissed

Judgement

Sri Nooty Ramamohana Rao, J. - The Union of India and the Staff Selection Commission are the petitioners in this writ petition, which is directed against the orders passed by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad in O.A. No. 892 of 2015.

2. O.A. No. 892 of 2015 has been instituted by the first respondent herein seeking a declaration of non-evaluation of answer script Paper-II ? English language and comprehension of Tier-II written examination conducted on 12.04.2015, as bad in law and for a consequential direction to the Staff Selection Commission to evaluate the said paper and declare the result of the applicant.

3. The Staff Selection Commission has issued a notification for Combined Graduate Level Examination 2014, for recruitment to different posts for which graduation from any recognised university is the minimum requisite qualification. The test is conducted in two tiers and thus marks of the candidates at both the tests would be taken into consideration for purposes of preparing the merit list. Accordingly, the test was conducted on 26.10.2014, whereat, the first respondent herein appeared with Roll No.2201213731 and Hall Ticket No.2116419 at Azmer, Rajasthan. In Tier-I examination, when the results were

published, the first respondent herein was declared to have secured 138 marks which fetched him an overall merit ranking of 609. Thereafter, Tier-II examination was conducted on 12.04.2015 at New Delhi and while the roll number remained to be the same, the hall ticket number for Tier-II examination bear S. No. 2122101. Tier-II examination comprised of two papers. In Paper-I, he was declared to have secured 155 marks while his result for Paper-II was not evaluated. Thus, the first respondent herein sought for the information under the Right to Information Act and secured the necessary information as to the reasons why Paper-II of Tier-II examination has not been evaluated so far as the first respondent is concerned. While enclosing a photocopy of the Paper-II answer sheet, the reason assigned for its non-evaluation is stated that he had failed to shade/blacken the test form number in the answer sheet. For this failure, to blacken/shade the test form number, the evaluation has not taken place.

4. The Tribunal, after considering the rival submissions, has noticed that insofar as Tier-I, the applicant has secured 138 marks and in Paper-I of Tier-II, he has secured 155 marks, thus totalling to 293 marks out of 400, which works out to 73.25% and hence, he appears to be a meritorious candidate and the failure to shade/blacken the test form number in the answer sheet is a technical error which has no direct bearing upon the issue of undertaking the evaluation of his Paper-II. At page number 76 of the paper book filed along with this writ petition, a photocopy of the answer sheet of the first respondent herein for Paper-II of Tier-II of the selection process has been enclosed. We have noticed that there are three columns which are required to be filled in by the candidate in this answer sheet. The first column related to test form number, while the second related to hall ticket number and the third relates to roll number. After entering the respective digit in the blocks set-apart for the said purpose, the candidates were also required to thicken/blacken the corresponding digit published down below the column where the number has got to be entered. As was already stated, there is no dispute with regard to the entry made by the first respondent relating to hall ticket number and roll number. Even with regard to the test form number, he has thickened the relevant circle representing the digits "6, 5, 7" & the letter "Q", but however, he has omitted to thicken the relevant circle for the capital letter "P" and the digit "3".

5. Now, the question is whether this error of not thickening a couple of circles in the answer sheet of Paper-II of Tier-II examination should result in a total denial of evaluation of the answer script.

6. The answer sheet is prepared in such a manner that it is ready to be scanned and the pre-loaded software of correct answers would undertake evaluation of the answer sheet simultaneously. Hence, each candidate was required to go through the questions in the question paper carefully and then thicken the corresponding correct circle representing A, B, C & D, options of answers which are notified for each question. By this method of thickening the circle concerned, which is treated as the appropriate answer to the question concerned, the

process of evaluation becomes easier and quicker, inasmuch as, a pre-programmed computer can easily scan the answer sheet and by recognizing the thickened circle against each of the questions and compare it with the pre-programmed answer and appropriate marks can be awarded when the answer matches with the key answer programmed to the computer. When thousands of aspirants take the exam, the examinations are sought to be conducted by holding an objective type of examination. It would facilitate to test the accurate knowledge of the candidate concerned, inasmuch as, four different options of answers are furnished right beneath each question. Out of the four answers so furnished for each question, the candidate must decide as to which of the four options provided reflects the correct and accurate answer and accordingly, thicken the circle concerned. For instance, for question number 1, if a candidate considered that out of the four options, option A is the correct answer, he has to thicken the circle "A" in the answer sheet opposite to question no.1. Similarly, for question no.2 if the candidate considers that answer at option B is the correct answer, he was required to thicken the circle "B" against question no.2. Similarly, he has to thicken the circles "C" & "D" to the respective questions where he considers such option as the correct option for the question concerned. This would facilitate the computer to scan the answer sheet for all the 200 questions in few seconds time and then, compare the answers furnished by the candidate by thickening the circles concerned with the already pre-prepared and programmed answers and as a result, the whole exercise of evaluation takes less than a minute per every candidate. By adopting this method of optic reading, hundreds and thousands of answer sheets can be got evaluated in very quick time. This would also avoid the possible error margin and would also avoid the element of adversely affecting the prospects of any candidate.

7. However, it is not the same with regard to entering the test form number, ticket number and roll number. The first respondent has entered his ticket number, roll number and also the test form number very accurately against the respective columns. There is no difficulty or denying of this fact. There is also no denying the fact that he has thickened the appropriate circle with regard to all the digits of ticket number and roll number. Only with regard to test form number while the initial four circles have been accurately thickened, the last two columns relating to thickening the letter "P" and digit "3" were left without being thickened. It is so obvious that there was lapse of concentration on the part of the first respondent in omitting to thicken two out of six columns relating to the test form number. Therefore, the failure to thicken two relevant circles with regard to the test form number namely letter "P" and digit "3" will not in any manner materially or substantially alter or cause hardship in evaluating the answers which have been furnished for the questions 1 to 200. At best, it would require a little more time to be spent on the part of the concerned at the stage of tabulating the marks secured by the respective candidates. But in no manner, it will impact the process of evaluating the answer sheets. We are, therefore, of the opinion that such non-substantive and non-material irregularities shall not result

in denying the benefit of evaluation of the answer sheet of a candidate.

8. One should not loose sight of the fact that the primary concern and aim of the Staff Selection Commission was to select the most meritorious candidate amongst the competing candidates. With a view to maintain the accuracy and integrity of the process of evaluation of the answer sheets, instead of undertaking evaluation manually the process of computerized evaluation was chosen and hence, the method of thickening the circle concerned against each question was devised. Therefore, for the evaluation of the answers furnished for questions 1 to 200, the failure of any candidate to thicken any other column relating to the test form number, ticket number or roll number will not come in the way or cause any hindrance. For instance, a candidate may not be knowing answers for certain number of questions and hence he may not chosen to take a chance and may not have thickened any of the four options on the answer sheet for such questions. That will not come in the way of the computer reading the rest of the questions answered by him and awarding marks for the correct answers furnished by him. For the failure to thicken all the circles of the ticket number, at best, the evaluated marks may not automatically be posted in the record relating to the respective candidates. It might require a verification by one concerned or the other of such an answer sheet. But, that is no reason for denying the evaluation itself.

9. Providing an equal opportunity to compete for selection to public employment is a fundamental right enshrined under Articles 14 & 16 of our Constitution. In matters of such fundamental rights, no impediment which is more in the nature of a technicality should be allowed to play a substantive role resulting in denial altogether of such rights. To the extent possible, fundamental rights should be allowed to have a free flow effect and impact. Therefore, looked at from any perspective, failure to thicken a couple of circles not with regard to the answers to be furnished by the candidate to the questions 1 to 200, but with regard to the test form number, in our opinion would not be fatal. In fact, in the present case, the test form number has been accurately filled-in, in the column provided for that purpose in the answer sheet. There is also a corresponding verification exercise by thickening the circle concerned furnished down below the test form number. Due to lapse of concentration, obviously induced by the enormous pressure, one would feel at the initial stage of subjecting himself to an examination, an error resulted in not thickening the circle relating to the token number and such technical error should not result in negation of the right to be considered for public employment notwithstanding the demonstrable merit processed by the candidate concerned. We are, therefore, of the opinion that the failure on the part of the Staff Selection Commission to evaluate the answer sheet of the respondent relating to Paper-II of the Tier-II test that was conducted on 12.04.2015 as an erroneous decision. In fact, we should also record that, pursuant to an interlocutory order passed by us on 14.10.2015, the answer sheet of the first respondent herein was got evaluated and the learned Assistant Solicitor General has, brought on record the order dated 06.11.2015

passed by the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, Staff Selection Commission (Southern Region), bringing it out that the first respondent herein has qualified in Tier-II for appearing in the interview for posts other than the Statistical Investigator Grade-II and also for such posts for which interview is not forming part of the selection process. In other words, the merit of the first respondent herein has been held established. We have taken on record the communication dated 06.11.2015 of the Regional Director of the Staff Selection Commission (Southern Region) which was placed before us along with a memo dated 12.11.2015 by the learned Additional Solicitor General.

10. We are, therefore, of the opinion that there is no merit in this writ petition, inasmuch as, the order passed by the Central Administrative Tribunal does not warrant any interference at our hands.

11. But however, we are of the opinion that when the process of direct recruitment to various posts in various civil services of the Central Government is undertaken, the primary concern is to pick up the most meritorious candidate from the respective segments for selection. Picking up the most meritorious candidate would also additionally sub-serve the larger public interest apart from complying with the principle of equality contained under Article 14 and equal opportunity contained in Article 16 of our Constitution. The very purpose of undertaking direct recruitment is to ensure the best of the most talented are picked up for public employment. By appointing such meritorious candidate, the efficiency of public services would attain the necessary standards which are set for that purpose. Therefore, an element of flexibility to ignore non-substantive errors committed by a candidate would only enhance and promote the larger public interest. Hence, if, there are any such similar cases as that of the first respondent herein, are lying, answer sheets of such candidates irrespective of the fact whether one has approached one High Court or the other should be undertaken for evaluation. The principle underlying is that the litigative ability and the free access to candidates is available to only few candidates and the financial ability to pay for the litigation expenses cannot act as a premium for securing justice. Justice to all and that too the inexpensive one is the motto of our Courts. All the unemployed young persons may not have adequate financial support to carry on with litigation. It is not the petitioner who has approached the Court alone who might get the ultimate relief, but it might be the one which may not have the necessary wherewithal to approach the Court who should be getting the actual relief, if he is better candidate than the one who has approached the Court. But, that would depend upon the relative merit of the candidates. In fact, this is the very same principle applied while dealing with the litigation relating to admission to medical colleges, engineering colleges and other higher educational institutions is pursued by the Courts. Therefore, a similar approach is called for even in the matter of public employment. The writ petition is accordingly dismissed, but however, without costs.

12. Therefore, we direct the Staff Selection commission to undertake evaluation of the answer sheets of all such candidates who might have made an error in not thickening/blackening the appropriate circles relating to one column or the other for hall ticket number, roll number and accordingly declare their results at the earliest.

13. It goes without saying that the first respondent herein will be subjected to the next process of selection as declared in the communication dated 06.11.2015, along with all other candidates.

14. Consequently, miscellaneous applications pending if any shall also stand dismissed.