

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

SWP No.1548/2015

Reserved on :06-08-2024
Pronounced on: 09-05-2025

Pushkar Sharma

.... Petitioner/Appellant(s)

Through:- Mr. B. R. Sharma, Advocate.

V/s

**Central Admn. Tribunal &
others**

.....Respondent(s)

Through:- Mr. Ravinder Gupta, AAG with
Ms. Pallavi Sharma, Advocate.

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

JUDGMENT

1. The petitioner through the medium of the present petition has challenged the order dated 12-12-2014 passed by the learned Central Administrative Tribunal Bench Chandigarh (hereinafter referred to as 'Tribunal') in an Original Application OA No.1517/JK/2013, whereby the same has been dismissed.
2. The petitioner is a graduate in B.E (Electronics) Degree and was selected in respondent-BSNL department as Junior Telecom Officer Sub-Divisional Engineer. He became eligible for promotion to the next higher post, that is, SDE (Telecom) on the completion of three years regular service, against 25% quota prescribed to be filled through

Limited Departmental Competitive Examination. The petitioner applied for the same in terms of circular dated 09.2.2007 and written test was also conducted on 15.06.2007. On 08.07.2008 result was declared but the petitioner was not declared as successful. Thereafter on 15.07.2008, he applied for details of marks, rechecking of paper and re-totaling. These details were furnished to the petitioner on 17.10.2008, and he was informed that there is no change in the result of the petitioner after re-checking/re-totaling. The answer sheet of paper-II, the answer sheet was supplied to the petitioner, only after appeal was filed by him under the RTI Act.

3. The petitioner represented to the respondents for re-examination of his result on the ground that certain questions were not evaluated and some were wrongly evaluated. It is stated that without examining the matter in proper manner, the claim of the petitioner was rejected by the respondent-authorities on 05.02.2010.
4. It is further urged that Para 4 [14] at Paras 10 to 18 of the Original Application contains mistakes committed in checking of paper II of the applicant but the same were not taken into consideration by the respondent while rejecting

his claim. It is submitted that the respondent corporation again issued notification for fresh LDCE which was conducted on 04.07.2010. The petitioner approached the Tribunal by filing O.A No.240/JK/2010 and prayed for quashing of result dated 08.07.2009 (A-1) for LDCE for the post of SDE (TERS Group-B) held on 15.07.2007 to the extent applicant was declared as unsuccessful and also order dated 18.08.2009 by which the result of re-checking and re-totaling had been communicated reiterating the marks already awarded rejecting the representation filed by the petitioner and for issuance of directions to the respondents to declare him as having passed in Paper II, resultantly promote him with all the consequential benefits.

5. The Tribunal disposed of the O.A No.240/JK/2010 filed by respondent No.1 by holding as under;

“.....we would request the learned counsel for the respondent to get the matter revisited at its own level within a period of two months”.

6. The respondents in compliance to the order of Tribunal dated 05.07.2012 considered the grievance of the petitioner and held that since the petitioner failed to secure minimum requisite marks as such he could be granted

promotion to the grade of SDE(T) on the basis of LDCE-2007 and the same was rejected vide order 1 dated 9.11.2012.

7. The petitioner filed contempt petition in No. 240/JK/2010 but the same was dismissed by respondent No.1 by an order dated 19.07.2013 by holding the same has been complied with, by passing order dated 19.11.2012.
8. The petitioner again filed the original application No. 1517/JK/2013 for quashing order dated 19.11.2012 and also for quashing the result of LDCE 2007 for the post of SDE Group B to the extent the petitioner has been declared un-successful as also after quashing order dated 05.02.2010, rejected his representation. The Tribunal found no reason to interfere with the well reasoned order, accordingly, dismissed the same being without any merit.
9. The contention of the petitioner is that while checking his the answer-sheets the examiner has not properly evaluated his answers which resulted into awarding him of lesser marks than the minimum marks prescribed for qualifying the test, resultantly he was unsuccessful in the limited Departmental Competitive Exam.

10. It is urged by the petitioner that he was shown to have secured only 49 marks, whereas for qualifying the same 50 marks out of 100, were required. He contends that he received copies of the answer script through RTI which show that a number of question were correctly answered by him were declared as wrong and he also found that different yard sticks for marking and the same differed from subject to subject and candidate-to-candidate. The total has been shown as 49 and for correction of error no reevaluation was required. It is stated that the Tribunal wrongly dismissed the OA No.1517/JK/2013 on the ground that it was the examiner own wisdom and satisfaction on which the marks are to be awarded in the examination.

11. Respondents-3 to 5 have filed their objections. It is stated in the objections that with regard to the request of the petitioner for revaluation of his answer book, it is intimated that as per Rule 15 of part I of Appendix 37 of P&T Manual Vol. IV, revaluation of answer script is not permissible in any case or under any circumstances as the examiner is the final authority in matters of revaluation,

his wisdom cannot be challenged. It is stated that under the garb of pointing out some alleged discrepancies in evaluation the petitioner wants to get revaluation his answer sheets of the exam. In support of their case, respondents-3 to 5 have relied upon the judgment rendered in (Km) Sneha Bhaisora vs. State of Uttaranchal, 2003 (53) A.L.R., 96. They have also urged that answer script of subjective paper cannot be evaluated strictly as per the answer given in the answer key provided to the evaluator. It is urged that it is well settled that in the absence of any provision the court should not direct re-evaluation.

12. The respondents submit that there is no infirmity in the impugned order dated 19.11.2012 and other orders passed by the respondents which are in accordance with the law. Further it is stated that, as per the comments of the evaluator, he has re-checked the entire answer sheet of the petitioner and he observed that no portion in the answer sheet of the petitioner was left unevaluated as every answer has been evaluated and, accordingly, marks were awarded. The marks of the petitioner in the paper-II remained 49 only and since the petitioner did not secure the minimum requisite marks that is 50 for qualifying in

LDCE, he cannot be declared as successful in the same. It is urged that respondents honored the order passed by the Tribunal and duly complied with it. It is also urged that petitioner in view of the law laid down and judgments as mentioned in para-12 of the objections, is not entitled to any relief as prayed for by him. It is, as such, submitted by the learned counsel for the respondents that the instant petition is devoid of any merit and the same is liable to be dismissed.

13. Further it is contended by the learned counsel for the respondents that as the petitioner was unsuccessful in the said examination, as such, the Tribunal has rightly dismissed his case.
14. We have heard the learned counsel for the petitioner as also learned counsel for the respondents-3 to 5.
15. The Tribunal considered the issue whether re-evaluation of answer sheet is permissible in the absence of any provision in the relevant rules.
16. The Rules relating to departmental examination are provided in Appendix 37 of P & T Manual. Rule-14 provides for retotaling and verification of marks, whereas

Rule-15 provides for re-evaluation. For facility of reference, both these Rules are reproduced below;

“14. Retotalling and Verification of marks - (a) If a candidate desires the retotalling of his marks and verification of the fact that all answers written by him have been duly assessed by the examiner, he should submit an application in the prescribed form (as shown in Annexure III) and pay the prescribed fees. The fees for this purpose is Rs.5 per paper.

(b) The procedure for payment and accounting of such fees will be the same as laid down in Rule 13 (b).

(c) Such applications must be submitted within six months from the date of announcement of the respective results. Any applications submitted thereafter should not be entertained.

(d) The retotalling and verification of marks should be carried out by an officer other than the one who had originally valued the answer scripts concerned. No remuneration will be payable for this work.

(e) The fee paid for retotalling of marks will not be refundable in any circumstances.

NOTE - 1. It must be clearly understood that the only scrutiny intended in this Rule is as shown in clause (a) viz., whether all the answers written by a candidate (provided that they are not in excess of the number required to be attempted) have been assessed, and that there is no mistake in the totalling of the marks.

NOTE - 2. In cases where the results of departmental Director-General's Circular, the period of six months referred to a sub-rule (c) will be counted from the date of such a Circular”.

“15. Revaluation of answer books - Revaluation of answer scripts is not permissible in any case or under any circumstances. 16. Exemption - (a) In the rules for certain depart”.

17. The respondents, thus, had to proceed in terms of Rule 14 and only verify the fact that all answers written by him have been duly assessed.

18. The petitioner request for re-totalling was duly addressed by the respondents. There is no change in his marks after

re-totaling the same. The total marks secured by the petitioner in paper second remains 49 out of 50 and there is no change in the marks obtained by him. As a result of re-totaling there was no change in the marks obtained by the petitioner as a result he was not successful in SDE (T) Departmental Competitive Examination held in the year 2007.

19. The contention of the petitioner is that he has rightly answered all five Short Note and has been awarded only lesser marks, the answer being subjective type assessment and he has not been awarded the marks due to him. This apart in other questions also he is entitled 50 marks and not 49 which have not been awarded to him. The request of the petitioner for recalculation, that is, re-totaling was considered and confirmed by the committee as per re-totaling there is no change in his marks. The petitioner in essence is seeking re-evaluation of the answer scripts which is not permissible as there is no provision for the same.

20. In **Sneha Bhaisora vs. State of Uttaranchal, 2003(53) A.L.R., 96**, the Allahabad High Court in WP No. 34725 of 2004 has observed that;

“The High Court cannot step into the shoes of an expert body and examine the answer books or re-evaluate the marks given in the answer books on its own.”

21. We have also seen the conclusion as arrived at by the Tribunal, as such, are of the view that the Tribunal has considered all aspects of the case and in its conclusion has prescribed principles/methodology for revaluating the answer sheet. It is also seen that Tribunal relied on law as laid down by the Supreme Court and other decisions of the High Court. The Tribunal after considering the entire issue held that the only issue which arose for consideration is whether re-evaluation of the answer sheets is permissible in the absence of any provision in the relevant rule.
22. For foregoing reasons, we do not find any ground for interference in the impugned judgment. Accordingly, the same is without any merit and is **dismissed**.

(Rahul Bharti)
Judge

(Sindhu Sharma)
Judge

Jammu
09/05/2025
Ved-secy

Whether approved for speaking	:	Yes/No
Whether approved for reporting	:	Yes/No