

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 765/2015

(ESHWARPRASAD NANDLAL JHARANE **VERSUS** UNION OF INDIA & OTHERS)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri O.L. Gupta, counsel for the petitioner.
Shri N.P. Lambat, counsel for the R-3 & 4.

CORAM : SMT.VASANTI A. NAIK AND
A.S. CHANDURKAR, JJ.

DATE : FEBRUARY 9, 2016.

By this writ petition, the petitioner challenges the selection process conducted by the respondents for the recruitment of employees in Group-D posts. The petitioner also seeks a direction that the Model Answer Book prepared by the respondent no.3 should be quashed and set aside and a fresh Model Answer Book be prepared. The petitioner seeks a direction to the respondents to declare that the petitioner has passed in the written examination as per the fresh Model Answer Book, that would be prepared.

The petitioner had applied for a Group-D post in pursuance of an advertisement issued by the respondents in August-2012. The petitioner had appeared at the written examination but, was declared fail. The petitioner asked for a photostat copy of his answer sheet and also the Model Answer Book. Both the documents were supplied to the petitioner. It is the case of the petitioner that the model answers have been wrongly published in the Model Answer Book. It is stated that some of the answers of the petitioner were correct but, still the petitioner received negative marks for answering them correctly

as the questions were wrongly answered in the Model Answer Book. The learned counsel for the petitioner has sought to point out the answer sheet of the petitioner as also the Model Answer Book on the basis of some data collected by the petitioner from the authorized book so as to show that some of the answers in the Model Answer Book are incorrect.

Shri Lambat, the learned counsel for the respondent nos.3 and 4, raises a preliminary objection to the tenability of the writ petition. It is stated that the petitioner has an alternate efficacious remedy of approaching the Central Administrative Tribunal, if the petitioner is aggrieved by the selection process undertaken by the respondents for the recruitment. It is submitted that if the petitioner is of the view that the petitioner should have been declared successful in the written examination and that he would be eligible for the appointment, the petitioner could have filed an Original Application before the Central Administrative Tribunal, in stead of waiting for nearly a year to file the writ petition after the declaration of the result. It is submitted that several disputed questions of facts arises for determination in this writ petition and this Court may not entertain the same, specially when an alternate remedy is available..

We find much force in the preliminary objection raised by the respondent nos.3 and 4 to the tenability of the writ petition. The petitioner has an alternate remedy of filing an original application before the Central Administrative Tribunal under Section 14 of the Administrative Tribunals Act. Several disputed questions of facts would arise for determination in this writ petition. Also, it would not be possible for this Court to examine each question, the answers of the petitioner to the same and whether it is the correct answer.

Hence, for the reasons aforesaid, we decline to entertain the writ petition. The petition is disposed of with no order as to costs. The petitioner is free to file appropriate proceedings, if so advised.

Order accordingly.

JUDGE

JUDGE

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