

\$~40

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2173/2016**

MALKHAN SINGH

..... Petitioner

Through: Ms. Jyoti Singh, Senior Advocate
with Mr. Manjeet Singh Reen,
Advocates

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Jagjit Singh & Mr. Preet Singh,
Advocates

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

%

15.03.2016

CM No.9309/2016

Allowed, subject to all just exceptions.

The application stands disposed off.

WP(C) No.2173/2016

The petitioner was unsuccessful having not cleared the written examination for selection to the post of Locomotive Inspector, results of which were declared on 5.1.2012.

The petitioner having obtained a copy of his answer-sheet along with model answers under the Right to Information Act, 2005 ('RTI Act'), made a representation and then filed OA No.1923/2012, which was disposed of, directing the respondents to decide the representation within three months.

The representation made was rejected by the order dated 21.11.2012.

The petitioner then filed OA No.4408/2012, which stands dismissed by the impugned order dated 10.10.2013.

Primarily, two contentions were raised before the Tribunal. Firstly, the Examiner had not rightly understood the meaning of the term 'objective type questions', and had erred in awarding NIL marks to several answers, on the ground that there was cutting/erasing/overwriting. Secondly, questions of 5 marks which had two sub-parts, were not fully checked and no marks had been awarded for each sub questions. It was submitted that the Examiner had awarded consolidated marks out of 5, without bifurcating and dividing marks between the two questions/sub-parts. In the review application, the petitioner had filed a copy of the answer-sheet of a third candidate also obtained under the RTI Act, to submit, that in the said case, the Checker had awarded separate marks for the sub-parts.

On the first contention, the Tribunal has referred to the Instructions in the Railway Board Circular, defining the term 'objective type question'. The term 'objective type question' would include i) Multiple choice questions, ii) Answer in yes or no, iii) Fill in the blanks (Maximum four words), iv) Match the following and v) Any other type of question (s) for which answer is to be given in one word/phrase. To be fair to the learned Senior Advocate for the petitioner, she has not drawn our attention to the said questions or answers and questioned the findings of the Tribunal on the first aspect.

On the other hand, emphasis was on sub-questions for which consolidated marks had been awarded. Our attention was drawn to the question papers and answer sheet. We find that the Examiner has carefully examined the answer sheet and has awarded marks.

There were questions in which consolidated marks out of 5 have been awarded. In other words, there were questions which had sub-parts and the entire question without bifurcation was allocated 5 marks. The answer sheet would show that the Examiner had awarded marks out of 5, after he had checked the sub-parts of each question. We do not see any reason or ground to hold that the said marking by the Examiner was wrong or faulty. The Checker might have adopted and awarded separate marks in case of a third candidate, which by itself, would not show that the Examiner had faulted or by mistake not awarded marks for sub-parts in the case of the petitioner. In the answer sheet of the petitioner, each question, which means sub-parts or questions, have been checked and marks awarded out of the maximum marks of five.

The order of the Tribunal does not require interference. The writ petition is dismissed.

SANJIV KHANNA, J

NAJMI WAZIRI, J

MARCH 15, 2016

tp