

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-2168-2017

Date of Decision: February 07, 2017

Amit Kumar

.....Petitioner

Versus

Central Administrative Tribunal, Chandigarh and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

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| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Rajesh Khandelwal, Advocate
for the petitioner.

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SURYA KANT, J.

The petitioner lays challenge to the order dated 08.12.2016 vide which the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for brevity, 'the Tribunal') has dismissed his Original Application seeking appointment to the post of Assistant/Sorting Assistant and Postal Assistant.

[2] The controversy which fell for consideration of the Tribunal was whether the petitioner had qualified in the competitive examination held for recruitment to the above mentioned posts and if so, whether he achieved the requisite bench mark?

[3] The petitioner was issued Roll No.171161285 and he appeared

in the written examination held on 07.07.2013 (Paper-I) and 31.08.2013 (Paper-II). The result of the examination was declared on 01.11.2013 and 18.12.2013, respectively, according to which the petitioner did not qualify, hence he was not selected. He thereafter applied under the Right to Information Act to get copy of the answer-sheets of both the papers and came to know that his name was included in the list of short-listed candidates invited to appear in Paper-II, but he was eventually not selected. Thereafter he made a representation.

[4] The main grievance of the petitioner is that the answer-sheet of his 'Data Entry Test' does not contain his signatures, date and place and that the answer-sheet on the basis of which he was not selected, does not pertain to him.

[5] With a view to resolve this factual controversy, the Tribunal called for the original record and it transpired that both the Tests were entrusted to an outsourced agency, namely, CMC. The test was conducted in batches. The Tribunal further found from the original record that the petitioner was also part of one such batch but his answer-sheet did not carry the signature, though every other sheet in his batch had the signatures of candidates. The Tribunal did not suspect any foul play and has held as follows:-

“However, it seems quite unlikely to us that the respondents had by design and with purpose, removed the result-sheet of the applicant and replaced it with some other answer sheet. We do not find any motive to do so. In practical terms, when a group is undertaking test, interpolation of this kind is extremely difficult. We also

find that the result sheet consists of two sheets which are numbered 42361 and 42362 which are in serial. This also indicates that these two sheets were consecutive and part of a continuing process. If these two sheets were replaced by another set of result sheet which was not of applicant, the serial numbers are likely to be different. We are, therefore, of the view that while not obtaining the signature of the applicant on the data entry sheet was a mistake and omission on the part of test conducting agency, it cannot be held as a deliberate action on their part to keep the applicant out of selection process with a malafide intention.

[6] Having held that the unsigned answer-sheet actually belonged to the petitioner, the Tribunal has further found as follows:

“The respondents have also in their oral submissions tried to co-relate his performance in typing test and data-entry test and said that even in typing test, his speed was 34 word per minute which translate to 22.67 marks. This contention of the respondents that the applicant's capacity and ability for typing test as well as data entry test was similar and, therefore, this allegation that this data entry result sheet has been replaced by somebody's result sheet to deliberately disqualify him from test, does not seem to be credible.”

[7] Consequently, the Tribunal in the light of the fact that the petitioner did not make it to the merit list, has turned down his claim.

[8] We have heard learned counsel for the petitioner who contends that an affidavit was filed before the Tribunal that the answer-sheet in dispute does not belong to him. We are afraid that such like disputed questions of fact cannot be gone into by this Court. In the absence of any

allegations of mala fide or extraneous considerations, the logical conclusion arrived at by the Tribunal is worth acceptance.

[9] Dismissed.

(SURYA KANT)
JUDGE

February 07, 2017
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(SUDIP AHLUWALIA)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |