

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

C.W.P. No.27117 of 2017 (O&M)

Date of Decision: November 29, 2017

Chiranjee Lal

...Petitioner

Versus

The Indian Council of Agricultural Research, New Delhi & others

...Respondents

**CORAM: HON'BLE MR.JUSTICE AJAY KUMAR MITTAL
HON'BLE MR.JUSTICE AMIT RAWAL**

Present: Mr.Vipin Mahajan, Advocate,
for the petitioner.

AMIT RAWAL, J.

1. The petitioner has approached this Court under Articles 226/227 of the Constitution of India challenging the order dated 3.8.2017 (Annexure P-19) rendered by the Central Administrative Tribunal, Chandigarh Bench (for short "CAT") in O.A.No.060/00872/2017 preferred against the impugned order dated 1.8.2017, whereby the entire examination/selection process relating to Limited Departmental Competitive Examination (for short "LDCE") for filling up the post of Assistant Administrative Officer (AAO), had been scrapped.

2. Mr.Vipin Mahajan, learned counsel representing the petitioner (applicant before the CAT) submitted that the petitioner was having the qualification of Master in Library and Information Science. On 23.10.1990, the petitioner was appointed as an Attendant (Literate) at National Dairy Research Institute, Karnal (for brevity "NDRI"). On qualifying the LDCE

and after considering his Annual Confidential Reports, the petitioner was promoted as Lower Division Clerk/Junior Clerk on 13.9.1994. He continued with his good work and conduct, which earned him yet another promotion as Upper Division Clerk (UDC) on 12.12.2007. Thereafter, he was promoted as Assistant w.e.f. 29.2.2012.

3. It was argued that respondent No.2 issued a Circular No.F.6-33/13/E-1(S) Vol.V-562-64 dated 5.1.2016 (Annexure P-1) for filling up the post of Assistant Administrative Officer (UR) in the pay scale of Pay Band-2 ₹9300-34800+4600 under LDCE quota for its Headquarter at Karnal. As per the circular, persons having three years regular service as Assistants/Personal Assistants in the aforementioned pay band as on 1.1.2016 could apply. Petitioner, being fully eligible, applied for the same. His application form was found to be in order and vide letter dated 12.2.2016 (Annexure P-2), the respondent-Institute called the eligible candidates for the written examination as per the schedule mentioned therein, i.e., from 29.2.2016 to 2.3.2016 (Forenoon). The petitioner got the highest marks in the examination. On the basis of the written examination, the Departmental Promotion Committee (DPC) was convened to consider and evaluate the APARs of all appeared candidates having weightage of 150 marks and on consideration of the marks scored in written examination and APAR/service record by the Committee, the petitioner was promoted/selected to the post of Assistant Administrative Officer vide Memorandum dated 11.3.2016 (Annexure P-3), which was accepted by the petitioner vide Annexure P-4.

4. It was further contended that on 26.3.2016, petitioner was allowed to join in the revised Pay Band on regular basis at NDRI, Karnal

w.e.f. 11.3.2016 (AN) against the post which had fallen due on the promotion of Shri R.K.Bansal, AAO. On 22.4.2016, pay of the petitioner was fixed as per the option exercised by him and after about 4½ months, i.e., on 28.7.2016, the petitioner was surprised to receive office order dated 28.7.2016 (Annexure P-7), wherein in pursuance to the order dated 25.7.2016 issued by respondent No.1-the Director, ICAR-National Dairy Research Institute, Karnal, the selection process of the aforementioned examination was ordered to be scrapped. The offer of appointment issued to the petitioner, vide letter dated 11.3.2016 and appointment order dated 26.3.2016, were also withdrawn. The petitioner approached the CAT vide OA No.060/00682/2016 where interim order dated 29.7.2016 (Annexure P-8), was passed staying the implementation of the order dated 28.7.2016. The aforementioned Original Application was contested by filing written statement where rejoinder was also filed. The Original Application was partly allowed and the impugned order was set-aside with a direction to the respondents to provide opportunity of hearing to the petitioner for following due process, i.e., in accordance with law.

5. The learned counsel for the petitioner next argued that show cause notice dated 1.5.2017 (Annexure P-14) was served upon the petitioner, which was duly replied, but the same was rejected vide order dated 1.8.2017 (Annexure P-16) opining therein serious reasons for scrapping of the selection process. The said order was again challenged before the CAT, which resulted into dismissal of the Original Application. The impugned order passed by the CAT is not sustainable primarily for the reason that it had ignored that the petitioner was not adjudged less knowledgeable or was not competent. The alleged allegation of appearing

and non-appearing of the candidates being apprehensive about the selection and due to this, out of eleven, five candidates did not appear, is totally baseless. It was not for the first time when about 50% candidates appeared in any examination. Not a single line complaint was received from any candidate/Invigilator/Centre Incharge directly or through ICAR regarding any misconduct and cheating. The finding given in the impugned order dated 1.8.2017 that the petitioner had written the answer in a clear and neat handwriting was not supported by any cogent reasons. Neither any incriminating document had been found from the possession of the petitioner nor he had been found indulging in any unfair means. Giving neat answer should not be a ground of suspicion to scrap the examination. Scrapping of the question paper of General Knowledge was also not based on any sound foundation. The petitioner was not associated at any stage when the preliminary enquiry committee submitted its report, which shows application of pre-determined mind in scrapping the entire examination and, thus, urged this court for setting-aside the impugned order.

6. We have heard the learned counsel for the petitioner, appraised the paper book and in our opinion, there is no force and merit in the submissions of Mr.Mahajan. The CAT had examined the relevant paragraph of the impugned order, whereby the Department had assigned reasons for scrapping the examination and the reasons are not one but many, which are reproduced here-in-below:-

“i. Shri Chiranjee Lal has written the answer in a clear, ‘neat’ handwriting which is quite improbable. The answer carry technical words, which a normal man of ordinary prudence does not use while writing a subjective paper. The answers have been copies from some material. In fact, Shri Chiranjee Lal also wrote the ‘question’ itself in the Answer sheet. He had

thus ample time in the world to write the answers. For example, in the Constitution Paper he initially wrote 'servant' and cut it off and again wrote servant.

ii. The question paper of General Knowledge was objective type which contained 100 question of 1 mark each. The correct answer was to be ticked '✓'. Shri Chiranjee Lal initially ticked 95 correct answers. But later on to the reason best known to him, these correct answers were cut down and incorrect answers were ticked as '✓'. By doing so, he deliberately lost 28 marks which reduced his score to 67 marks, the 2nd highest. This cutting was thus done to avoid allegations of manipulation in the exam because scoring 95 marks out of 100 would have pointed towards irregularity thereby exposing Shri Chiranjee Lal.

iii. In paper (No. III) Constitution of India, he scored 86 out of 100 marks. The answer of this subjective paper have been written with perfection and precision which is ordinarily not possible for a candidate to perform in an examination. The neatness in writing is matchless. The copies of other candidates indicate disorder, untidiness and hotchpotch manner of writing. Even after mugging up these answer cannot be written in the way Shri Chiranjee Lal has done.

iv. In all the Answer Sheets, the said Invigilators have signed on the first page and the last page where candidate ended his answer (which also bore signature of Centre Incharge). The paper was held on 29.2.216 (2 sessions); 1.3.16 (2 sessions) and 2.3.16 (morning session). All the three Invigilators, Centre Incharge and the Controller of Examination appear to have failed to perform their duties in a fair and transparent manner and rather apparently have been instrumental in selection of Shri Chiranjee Lal. This could not have been possible without the tacit approval of the Director. There was a common intention to select Shri Chiranjee Lal for the post of AAO, by whatever means.

v. The candidates who has applied for the examination were

questions about the conduct of examination. Those who had applied but did not appear said that since the result was predictable, there was no use to sit for the exam. Those appeared for the test were apprehensive about the selection of Shri Chiranjee Lal. These include Director recruit Assistants who are knowledgeable and competent. This is proved from the fact that Shri Vivek Saini scored 296 marks as against Shri Chiranjee Lal's 364 marks.

vi. Though the applicant was not caught red-handed for unfair means during the course of examination, but, it was observed that the answers given by the applicant in the answer-sheets are literally word-by-word copy from the book/materials on internet/other sources. It is improbable for a person to give such verbatim answers.

7. Mr.Vipin Mahajan, learned counsel for the petitioner laid strong emphasis that the CAT had not called upon the Department to give reply and dismissed the Original Application in limine. Equally, we do not find any substance in this submission as well. Once the reasoning given by the department was not dispelled by learned counsel for the petitioner, it was not mandatory for the CAT to have called for any reply from the respondents.

8. Finding no fault with the order of the CAT in approving the order of the authorities scrapping the entire examination, we do not find any illegality and perversity in the impugned order. No ground for interference is made out. Resultantly, the writ petition is dismissed.

**(AJAY KUMAR MITTAL)
JUDGE**

**(AMIT RAWAL)
JUDGE**

**November 29, 2017
ramesh**

**Whether speaking/reasoned
Whether Reportable:**

**Yes/No
Yes/No**