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

Date of Decision: 05.07.2018

+ W.P.(C) 6849/2018

PAWAN KUMAR

..... Petitioner

Through Ms.Surbhi Chandra, Adv.

versus

STAFF SELECTION COMMISSION AND ANR. Respondent

Through Mr.Ripu Daman Bhardwaj, Adv.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The present petition, impugns order dated 11.04.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in dismissing O.A. No.1390/2018, filed by the petitioner seeking rectification of the answer-keys qua the examination held for recruitment to the post of Lower Division Clerk (LDC) in the year 2015.

2. The brief facts as emerge from the record are that a recruitment notice inviting applications for various posts including the post of Lower Division Clerk (LDC) was published by the respondent in the Employment News on 13.06.2015. The selection was to be done by way of a Combined Higher Secondary Level Examination. The petitioner, being desirous of applying for

the post of LDC, submitted his application and cleared the preliminary examination with 141.05 marks, whereafter he also qualified the Descriptive and Typing Examination.

3. At this stage, it may be pertinent to notice that after holding the written examination, the respondent no.1/Staff Selection Commission issued a public notice informing the candidates that the tentative answer-keys for the said examination were being uploaded on the website of the Commission i.e. www.ssc.nic.in. By way of said notice, the candidates were granted an opportunity to send their representations, if any, by 5 p.m. on 31.05.2016, in case, of any objection qua the answer-keys and they were clearly informed that any representation received after the due date, would not be entertained.

4. Admittedly, the petitioner did not raise any grievance regarding the answer-keys at that stage, even though some aggrieved candidates had submitted representations regarding answer to certain questions in the tentative answer-keys, which were duly considered by the Commission and the final results were thereafter declared on 28.08.2017. Upon learning that he had not been selected as he had obtained only 181.05 marks against 182 marks obtained by the last selected candidate, the petitioner submitted an application dated 30.08.2017 under the RTI Act seeking a copy of his OMR sheet as also of the descriptive paper, which were supplied to him on 10.10.2017. Thereafter, he submitted an appeal under the RTI Act, requesting for supply of a copy of the answer-key (TIER I), which was duly supplied to him vide letter dated 23.10.2017. It is only after gathering the above information that the petitioner served a legal notice dated 03.01.2018 on the respondent no.1/S.S.C. alleging

therein for the first time that the options given in respect of the question no.121 in the answer-key were erroneous and therefore, he should be granted compensatory marks for the same.

5. Immediately upon receipt of the notice, vide reply dated 15.01.2018, the respondent no.1 informed the petitioner's counsel that since the answer-key in respect of question no.121 had not been challenged by him or any other candidates, during the specified time period given by the Commission in the notice issued on the website, the tentative answer-key of the said question had been retained and the result had accordingly been processed and declared on 28.08.2017. The petitioner's counsel was thus informed that at this belated stage, the petitioner's request for challenging the tentative answer-key could not be entertained. Aggrieved, by the said rejection of his request to reconsider the answer-key to question no.121, the petitioner initially filed a writ petition being W.P.(C)No.2421/2018 before this Court, which was dismissed as withdrawn vide order dated 16.03.2018, with liberty granted to him to approach the Tribunal.

6. The petitioner, therefore, approached the Tribunal by way of the aforesaid O.A. No.1390/2018, which has been dismissed by the impugned order, by holding *inter alia* that the answer-key having not been challenged by him during the specific time period given by the respondent no.1/S.S.C., his request to challenge the same at this belated stage, had been rightly rejected.

7. Aggrieved by the dismissal of his O.A., the present writ petition has been filed. Before us, learned counsel for the petitioner reiterates the same grounds as had been raised before the Tribunal. She submits that merely because the

petitioner did not feel the necessity of challenging the tentative answer-key before 31.05.2016, the date specified in the notice, he cannot be precluded from challenging the same at a subsequent stage, once it is evident that the options qua question no.121 were erroneous. She further submits that it is only upon declaration of the final result that the petitioner learnt that he had not been selected on account of obtaining 0.5 marks less than the last selected candidate and, therefore, contends that his cause to challenge the answer-key arose only when he learnt that he not been selected. She submits that in any event, once it is apparent that the tentative answer-key, which was finally accepted by the respondents is on the face of it erroneous, the respondents ought to be directed to carry out the necessary correction and award additional marks to the petitioner. She finally contends that the mere delay on the part of the petitioner in seeking relief cannot be a ground to deprive him of the right to get an appointment, which he would get in case the answer key to question no.121 is corrected by the respondent.

8. We have carefully considered the submissions of the learned counsel for the petitioner and find absolutely no merit in the present petition. The admitted facts clearly show that the petitioner did not challenge the answer-key at the relevant point of time and that too when the respondent no.1/S.S.C. had specifically provided a cut-off date for submitting representations against the tentative answer-key. In our view, the respondent no.1/S.S.C. was justified in prescribing a cut-off date for consideration of representations against the tentative answer-keys so as enable them to make necessary changes, if any, in the answer-keys to the benefit of all similarly placed candidates. Any change

in the answer-key at this belated stage would necessarily impact the entire result, which cannot be permitted. Therefore, we find no infirmity in the decision of the respondent no.1/S.S.C. or the Tribunal in declining to entertain the petitioner's representation at this belated stage.

9. In the aforesaid circumstances, we find no reason to interfere with the impugned order which is upheld. The petition is, accordingly, dismissed in *limine*.

(REKHA PALLI)
JUDGE

(HIMA KOHLI)
JUDGE

JULY 05, 2018

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