

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

Civil Writ Petition No.:16494 of 2019(O&M)

Reserved on : September 11, 2019

Date of decision : January 31, 2020

Union of India and others

...Petitioners

Versus

Prem Chand and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr.Namit Kumar, Sr.Panel Counsel
for the appellants.

Mr.D.R.Sharma, Advocate
for respondent No.1.

Harinder Singh Sidhu, J. :

1. The Union of India in the Ministry of Communication and Information Technology, Department of Posts and others have filed this writ petition against the order dated 17.11.2018 (Annexure P-4) of the Central Administrative Tribunal, Chandigarh Bench, whereby, Original Application No.060/00026/2017 filed by respondent No.1 – Prem Chand was allowed.

2. Respondent No.1 joined the Postal Department as a Gramin Dak Sewak in the year 1991. After passing the requisite examination, he was selected as a Postman and joined as such on 15.04.2011. The appellants conducted a Limited Departmental Competitive Examination

(LDCE) for promotion of lower grade officials to the cadre of Postal Assistant/Sorting Assistant for the year 2015-16. Respondent No.1 being eligible applied for and appeared in the said examination held on 31.07.2016 under 'OC' category. The Examination consisted of two papers of one hour duration each. It was an objective type test in which each objective question was followed by four responses serialized A to D. The candidate was required to choose the correct/best response in the OMR answer sheet. There were to be 50 MCQs in each paper. The qualifying marks for the candidates appearing in the OC category was 40% in each Paper.

3. Respondent No.1 secured 48 marks in Paper-I and 38 marks in Paper-II. He was thus short of 02 marks in Paper-II. He obtained information under RTI Act, which revealed that he had been awarded '0' marks against question No.15.

4. The case of respondent No.1 was that in respect of question No.15, there was a mismatch in the English and Hindi version. While the English version contained the correct answer the Hindi version did not contain the correct answer. He claimed that he had opted for answering the questions in Hindi and as the Hindi version of the paper was incorrect, he ought be granted grace marks for the said question.

5. The case of the appellants was that the Question Paper Booklets contained details instructions for the candidates. In the Instructions, it had been clearly mentioned "Further question paper is bilingual (Hindi and English). In case of any variation in translated Hindi version, English version will be taken as final for evaluation purposes".

As the English version contained the correct answer, the respondent could gain no benefit just because the answer in the Hindi version was not correct.

6. The Ld. Tribunal rejected the claim of respondent No.1 regarding his having opted for Hindi Language. It held that it was clear from a perusal of the Application Form (R-1) submitted by respondent No.1 that no option had been given to the candidates for choosing between English and Hindi language. There was no other material on record that any such option was given to the candidates.

7. But the Ld. Tribunal allowed the OA on the consideration that the candidates had to answer 50 questions in one hour and that in an objective paper, time of essence and the candidates could not be expected to go through both English and Hindi versions and to identify the mistakes/mismatches before attempt the questions. It also considered that usually when mistakes occur in a question paper, the practice is normally to award grace marks to all candidates who had attempted such questions. Accordingly, the Tribunal held that the claim of respondent No. 1 for grant of 02 grace marks was justified. The OA was allowed with direction to the appellants to reconsider the result of respondent for examination with the change as directed and send him for training and promote him as Postal Assistant, if he is otherwise eligible.

8. The relevant question No.15 is as under:-

“In English:

'15. First class mails include:

A. Letters

B. Post cards

- C. Letter cards*
- D. All of the above.'*

In Hindi :

'15. Pratham Shreni Ke Mail se Shamil hai:

- A. Patr*
- B. Postcard*
- C. Patr Cards*
- D. Uprerukat se koi bhi nahi.'"*

It is not disputed that the English and Hindi versions of this Question do not match. While Serial No.D in the English version is the correct answer, its counter part Serial No.D in the Hindi version is incorrect. It is the exact opposite of the English version. While the English version is "All the above" the translated Hindi version "*Uprerukat se koi bhi nahi*" would be 'None of the above'. The answer in the Hindi version is incorrect.

9. The Ld. counsel for the appellants mainly laid stress on the Instructions contained in the Question Booklet that in case of any variation in the Hindi version the English version will be taken as final for evaluation purposes. He has argued that in the present case the question No.15 in the English version is correct. It is only in Hindi version that the answer is incorrect. In this situation the candidate should have resorted to the English version in terms of the note contained in the Question Booklet and there is no question of award of grace marks.

10. We are not persuaded with the argument of Ld. counsel for the appellants. Firstly, it is not a case of mere variation in the translated Hindi version. The answer in the Hindi version is the exact opposite of the answer in the English version. The answer in the English version is correct, whereas, the answer in the Hindi version is incorrect.

11. It appears that the objective of setting a bilingual question paper may be to facilitate the candidates to answer according as they are fluent in one language or the other and to promote better understanding/comprehension in case of any doubt or ambiguity in translation or the use of certain terms. In any case, whatever be the purpose and objective of setting a bilingual question paper, the candidates cannot be put to any disadvantage on account of the same as has happened in the present case where the answer in the English and Hindi version is totally opposite and one of them is incorrect. It would not be fair to subject a candidate to any disadvantage on that account. More so, in a case of an objective type question, where time is of essence as rightly observed by the Ld. Tribunal.

12. Accordingly, we find no merit in the petition.

13. Dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

January 31, 2020

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No