



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

%

Date of Decision: August 28, 2023

01

+ **W.P.(C) 9305/2023**

ANOOP KUMAR YADAV

..... Petitioner

Through: Mr. Mohd. Faisal, Advocate.

versus

UNION PUBLIC SERVICE COMMISSION

& ORS.

..... Respondents

Through: Mr. Naresh Kaushik,
Mr. Shauryanker Kaushik,
Mr. Anand Singh and
Mr. Shubham Dwidi, Advocates
for UPSC / R-1.
Ms. Arunima Dwivedi, CGSC
with Mr. Hardik Bedi, Govt.
Pleader, Ms. Pinky Pawar and
Mr. Aakash Pathak, Advocates
for UOI.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO (Oral)

1. The challenge in this writ petition is to an order dated March 13, 2023, passed by the Central Administrative Tribunal, Principal Bench, New Delhi ('Tribunal', for short) in O.A. 1835/2017, whereby the Tribunal has dismissed the O.A. filed by the petitioner herein.

2. The challenge made in the O.A. by the petitioner was in respect of



selection process undertaken by the respondents to the post of Assistant Provident Fund Commissioner. The prayers made by the petitioner in the O.A. include re-evaluation of the answer-sheet of the petitioner.

3. The case of the petitioner before the Tribunal was primarily in respect of question No. 49 of Set-A of the recruitment test held on January 10, 2016, which reads as under:

*“49. Whenever nations establish free trade zone, they lift all the ban on trade exchanged between them, and
 (a) They levy a reasonable external tariff on the imports to be made from external countries.
 (b) They lift all the restrictions on the imports to be made from external countries.
 (c) They stop all the restrictions on imports to be made from other free trade zones.
 (d) Each country maintains its set of tier tariff & quota on imports to be made from external countries.”*

4. The submission of learned counsel for the petitioner is, as per the Economic Survey published by the Government of India, a free trade agreement is defined as under:

“ B. Free Trade Agreement (FTA): A free trade agreement is a preferential arrangement in which members reduce tariffs on trade among themselves, while maintaining their own tariff rates for trade with nonmembers.”

5. According to him, the petitioner marked alphabet ‘d’ as his answer. Whereas, UPSC case is, ‘a’ is the right answer as per the model answer-key.

6. We have seen the question and the options given to the candidates and also the Economic Survey published by the Government of India.



7. We are of the view that the Tribunal though had not considered the question and answer and also the probable answer, it has primarily on the basis of law on the scope of judicial review in respect of cases of this nature, has dismissed the O.A.

8. Mr. Kaushik, learned counsel for the UPSC would submit that the representation of the petitioner dated August 12, 2016, was considered by the UPSC to convey to the petitioner that the question as well as answer-key of that paper was prepared by a team of experts and reviewed by experts. In other words, they rejected the representation of the petitioner.

9. Mr. Faisal would submit that the petitioner is not in receipt of the letter dated September 14, 2016 of the UPSC. This submission is disputed by Mr. Kaushik.

10. During the pre-lunch session, we had called upon Mr. Kaushik to furnish a copy of the same to Mr. Faisal so that he can have a look on the letter of the UPSC, rejecting the representation.

11. During the post-lunch session, Mr. Faisal submits, as there is no dispatch number on the letter, hence, it is clear that the letter was not sent to the petitioner.

12. We find that the letter is affixed by a stamp stating 'issued'. Presumption is, such a letter has been dispatched by the UPSC.

13. In any case, it is the stand of the UPSC that the questions and the answer-keys were prepared by a team of experts and reviewed by experts. If that be so and also in view of our above conclusion, with regard to the



possible answer to the question, we are of the view that the Tribunal was justified in rejecting the O.A.

14. This court is of the view that the scope of judicial review in a matter of this nature is very limited. The plea of Mr. Faisal that option ‘D’ is the right answer cannot be accepted nor can be gone into the writ petition filed by the petitioner. The conclusion arrived at by the Tribunal is justified. In this respect, we refer to this judgment of the Supreme Court in ***Ran Vijay Singh & Ors. vs. State of Uttar Pradesh & Ors., (2018) 2 SCC 357***, wherein, in paragraphs 30 and 31, it has been held as under:

“ 30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are:

30.1. If a statute, Rule or Regulation governing an examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit it;

30.2. If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the Court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any “inferential process of reasoning or by a process of rationalisation” and only in rare or exceptional cases that a material error has been committed;

30.3. The Court should not at all re-evaluate or scrutinize the answer sheets of a candidate – it has no expertise in the matter and academic matters are best left to academics;

30.4. The Court should presume the correctness of the key answers and proceed on that assumption; and

30.5. In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.



31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse – exclude the suspect or offending question.”

(emphasis supplied)

15. Writ petition being without merit is dismissed.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

August 28, 2023/R