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

% *Date of decision: 31st October, 2023*

(50) + W.P.(C) 14386/2022 & CM APPL. 43901/2022

UNION OF INDIA & ORS. ..... Petitioners
Through: Ms. Pratima N. Lakra, CGSC with Ms. Vanya Bajaj and Ms. Kashish G. Bawaja, Advs. with Mr. Roop Kishore, Dy SPOS, Meerut Division and Vijendra SSPOs, Muzaffarnagar.

versus

BISHAMBER DAYAL ..... Respondent
Through: Mr. A.K. Behera, Sr. Adv. with Mr. Amarendra P. Singh, Advs.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

1. The challenge in this petition is to an order dated December 19, 2017 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA 2088/2013 whereby the Tribunal has disposed of the OA filed by the respondent by stating in paragraphs 12 and 13 as under:

> *"12. A bare perusal of the answer sheet also shows that there has been a mismatch of marks awarded in Question-II where the marks awarded indicate 5, 4 and 3. Thus, there appears to be considerable substance in contention of the applicant that there*

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was indeed carelessness and non-application of mind by the original examiner while evaluating Paper-I of the applicant.

13. We once again direct the respondents to re-evaluate Paper No.1 of the applicant by another examiner categorically pointing out the alleged discrepancies by the applicant. The final decision may be informed to the applicant by issue of a reasoned and speaking order. This exercise should be completed within a period of three months from the date of receipt of a copy of this order.

2. The facts as noted from the record are that the respondent herein had appeared in the Postman Examination of 2009 held on November 18, 2009 for the purpose of regularization. The petitioners declared the result of the examination on January 6, 2010,

3. It was the case of the petitioners that the respondent was not declared as passed. It was their case that he had secured 103 marks out of 150 marks which includes 22 marks in Paper-1, which is less than cut-off marks of 22.5 marks out of 50 marks.

4. On May 18, 2010, the respondent made a representation for revaluation of the answer sheets. The answer sheets were not evaluated. On June 3, 2010, petitioners rejected the representation dated May 18, 2010 of the respondent. Aggrieved by the same, respondent filed the Original Application being OA 3462/2010 which was disposed of on July 11, 2011 with a direction to the petitioners for revaluation of the Paper-1 by another examiner. Pursuant thereto, petitioners passed an order dated June 15, 2012. According to the respondent the answer on revaluation remained unchanged. He filed an appeal before the Appellate Authority under the RTI which was also rejected. This has resulted in the filing of the OA in which the

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impugned order has been passed.

5. We have already reproduced the relevant paragraphs of the conclusion of the Tribunal. Suffice to state that the Tribunal had directed the petitioners to revaluate Paper-1 of the respondent by another examiner.

6. On October 11, 2022, this Court had passed the following order:

> *"2. Issue notice to the Respondent, returnable on 01.05.2023.*
>
> *3. In the meantime, Petitioners shall conduct re-evaluation as directed by impugned order dated 19.12.2017 and produce the reevaluated paper in Court in a sealed cover, on the next date of hearing.*
>
> *4. It is clarified that re-evaluation shall be without prejudice to the rights and contentions of the parties."*

7. Today a sealed cover has been produced before us, which has the answer sheet of Papar-1. The officer namely Mr. Vijendra, SSPOs, Muzaffarnagar is present in person. He had revaluated the answer sheet of the respondent pursuant to the directions of the Tribunal and this Court. As per him and also noted from the answer sheet, the respondent's marks have been increased to 26 out of 50. That means that the marks of the respondent in Paper-1 have been increased from 22 to 26, i.e., much above the cut-off marks of 22.5 marks.

8. If that be so, the order of the Tribunal having been acted upon, no interference is called for with the impugned order.

9. The petitioners are required to take further action as per the order of the Tribunal, i.e., they have to pass a reasoned and speaking order that too based on the outcome of the revaluation carried out in terms of the order of the Tribunal / this Court.

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10. Though one of the grounds of challenge of the petitioners is that in the absence of any rule for revaluation, the Tribunal could not have ordered revaluation, however, it is a fact that revaluation has been carried out on the basis of the order of the Tribunal and this Court and the plea of the learned counsel for the petitioners that there is a rule which bars the revaluation, which submission is disputed by Mr. Behera, we say nothing on the same. In view of the peculiar facts of this case, we refuse to interfere with the order of the Tribunal. The petition is dismissed.

CM APPL. 43901/2022

Dismissed as infructuous.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

OCTOBER 31, 2023*/jg*

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