



2024:DHC:6882



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 04th September, 2024

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W.P.(C) 8888/2024 and CM APPL. 36137/2024

NILESH KUMAR CHAUDHARY

.....Petitioner

Through: Mr. Nishant Singh, Mr. Sanjay Kumar, Mr. Abhishek Saxena, Mr. Vaibhav Patel, Mr. Saurav Dewal and Mr Munish, Advocates.

versus

UNION OF INDIA AND ANOTHER

.....Respondents

Through: Mr. Farman Ali, SPC with Ms. Usha Jamnal, Advocate for R1.

Mr. Digvijay Rai, Mr. Archit Mishra, Mr. Rohit Kumar Munjral, Mr. R. Ali Khan, Advocates with Mr. Yatinder Chowdhary, Law Officer / AAI for R2.

Mr. M.A. Niyazi, Standing Counsel for CBSE with Ms. Anamika Ghai Niyazi, Ms. Kriti Bhardwaj, Ms. Nehmat Sethi, Mr. A. Ali and Ms. Shubhangi, Advocates.

CORAM:**HON'BLE MS. JUSTICE JYOTI SINGH****JUDGMENT****JYOTI SINGH, J. (ORAL)**

1. This writ petition has been preferred on behalf of the Petitioner under Article 226 of Constitution of India seeking quashing of the impugned final result for appointment to the post of Junior Executive (Air Traffic Control) ('ATC') issued pursuant to Advertisement No. 05/2023. Writ of *mandamus* is sought for a direction to Respondent No.2/Airports Authority of India ('AAI') to re-evaluate the answer given by the Petitioner to Question ID No. 630680529924 and if the answer is found to be correct, allot one raw score



for the said question and as a consequence thereof appoint the Petitioner on the post of Junior Executive, ATC with consequential benefits.

2. Factual matrix to the extent necessary is that Advertisement No.05/2023 was issued by AAI inviting applications for appointments to 496 posts of Junior Executives (ATC). The advertisement was uploaded on AAI website on 14.10.2023 as also published in the Employment News on 04.11.2023. Out of 496 posts, 199 posts were in the General category, 49 were reserved for EWS category, 140 were reserved for OBC, 75 were reserved for SC and 33 were reserved for ST category. Qualifications prescribed were full-time regular Bachelor's degree in Science with Physics and Mathematics or full-time regular Bachelor's degree in Engineering in any discipline with Physics and Mathematics as subjects in any one of the semesters.

3. Petitioner submitted online application in OBC (N.C.L.) category and the same was numbered as Application Number-AAI230157189. Admit card was issued to the Petitioner with Roll No. 125197010129. As per clause 8(iii) of the Advertisement, an objective type online examination i.e. Computer Based Test (CBT) was to be conducted with a stipulation that there will be no negative marking for wrong answers attempted by the candidates. First shift of the CBT was held on 27.12.2023 between 8.30 am to 10.30 am.

4. On 29.12.2023, AAI issued notice regarding Objection Management as postulated in the advertisement and the Objection Management Link for the CBT was available on AAI website from 29.12.2023 (02:00 PM) to 01.01.2024 (11:55 PM). At this stage, Petitioner did not file any objection. After completion of the CBT, AAI issued 1st Response Key reflecting that



the Petitioner had answered 95 questions correctly and hence his raw score was 95. Clause 8(vi) of the advertisement provided that candidates will be shortlisted on the basis of their performance in CBT and will be called for Application Verification/Voice Test/Psychoactive Substances Test/Psychological Assessment Test/Medical Test, as applicable for the post in question.

5. On 02.02.2024, result of CBT for the post of Junior Executives (ATC) was declared by AAI and Petitioner was shortlisted for Application Verification/Voice Test/Psychoactive Substances Test/Psychological Assessment Test/Medical Test based on his performance in CBT and the name of the Petitioner was mentioned at page 4, 5th row from the bottom and 2nd box/cell from left margin in the result. On 16.02.2024, when the schedule was declared for application verification and other tests, name of the Petitioner was mentioned at serial No. 288. Call letter dated 21.02.2024 was issued to the Petitioner calling upon him for verification and other tests.

6. In the meantime, Petitioner downloaded the score card and perusal of the same showed that his raw score was 94 and normalized score was 99.82 and therefore, one raw score had been deducted. Petitioner appeared on 27.02.2024 for application verification and other tests before the concerned Authority but later learnt from information received under the Right to Information Act, 2005 that answer to one of the questions had been marked as wrong. When the final result was declared on 13.05.2024, Petitioner's name was not mentioned and the cut off in the OBC (N.C.L.) list was 100. In the perception of the Petitioner, he had opted for the correct answer and the deduction of one raw score was incorrect and therefore he approached this Court challenging the correctness of the answer key.



7. After hearing arguments at some length and finding *prima facie* merit in the contention of the Petitioner that he had correctly answered the question, which is the subject matter of this writ petition, with the consent of counsels for the parties, Court vide order dated 16.08.2024 requested the Chairman, CBSE to constitute a Committee for examining the question and render its expert opinion. The opinion was to be sent in a sealed envelope to the Registrar General within two weeks from the date of the order.

8. Mr. M.A. Niyazi, learned Standing Counsel appears for CBSE and submits that the Committee constituted by the Chairman, CBSE has rendered its opinion after a detailed analysis of the question and the four options and hands over a sealed cover containing the opinion. In the presence of the counsels for all the parties, sealed cover is opened in Court and the report of the Committee is perused.

9. Before proceeding further, I may extract hereunder the question which is the bone of contention between the parties, for ease of reference:-

Q.6 7 persons M, N, O, P, Q, R and S are sitting in a row facing towards south (not necessarily in the same order). R is not at the extreme end of the row, P sits at 5th position to the right of M. Two person is sitting between M and R. P and R is not an immediate neighbour of each other. S is sitting at second position from the left of R. N sits at 4th position to the right of O. Who is at the 3rd position from left end and right end respectively?

Ans ☒ 1. S, P
☒ 2. O, Q
☒ 3. Q, R
☒ 4. O, P

10. Indisputably, Petitioner had chosen option No. 2 'O, Q' while answering question ID No. 630680529924. As per Committee's report, this has been found to be the correct answer and therefore, in my view, there is no impediment in the way of the Petitioner from getting an additional one



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raw score to his existing total raw score. Mr. Digvijay Rai, learned counsel appearing for AAI candidly and fairly submits that with the addition of one raw score, Petitioner will be entitled to be appointed to the post of Junior Executive (ATC), subject to his clearing the remaining tests/verification, if any, involved in the process of selection such as Application Verification/Voice Test/Psychoactive Substances Test/Psychological Assessment Test/Medical Test.

11. In view of the aforesaid, this writ petition is allowed to the extent of declaring that Petitioner has correctly attempted question ID No. 630680529924 and is entitled to one raw score on this count. It is, therefore, directed that Petitioner will be called for the remaining tests, if any, in accordance with the procedure of selection laid down in the advertisement and in case, he successfully clears the said tests, offer of appointment shall be issued to the Petitioner with resultant consequential benefits. This entire exercise will be completed within a period of three weeks from today.

12. Before drawing the curtains, Court will be failing in its duty if it does not express its appreciation and gratitude to the Chairman, CBSE who, in a short span of time took steps to constitute a Committee for evaluation of the answer key for providing expert opinion. Court is also appreciative of the fair stand taken by Mr. Digvijay Rai, learned counsel and AAI in the matter.

13. Petition stands disposed of. Pending application also stands disposed of.

JYOTI SINGH, J

SEPTEMBER 4, 2024/jg/shivam