



2025:DHC:11095-DB



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

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Date of decision: 08.12.2025+ **W.P.(C) 2625/2019****MANOJ KUMAR**

.....Petitioners

Through: Mr. Tejas Bhonge, proxy counsel for
Mr. Ajit Kakkar.

Versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Vinay Yadv, CGSC with Ms.
Kamna Behrani, Mr. Ansh Kalra, Mr.
Neeraj Paulose Raj, Respondents.**CORAM:****HON'BLE MR. JUSTICE DINESH MEHTA****HON'BLE MS. JUSTICE RENU BHATNAGAR****DINESH MEHTA, J. (ORAL)**

1. By way of present Writ Petition, the petitioner has laid challenge to order dated 05.02.2019, whereby the appointment granted to him by the respondent has been cancelled/withdrawn.
2. The facts giving rise to the petitioner's grievance lie in a very narrow compass-the petitioner, vied for the post of fireman, pursuant to advertisement published in employment news between 28.04.2018 to 04.05.2018, whereby applications for filling up of 95 posts of Firemen at Naval Dockyard, Mumbai, were invited. Pursuant to the recruitment process held for the post, the petitioner was selected and was issued an appointment order dated 05.12.2018 and was allowed to join on the post of Fireman



(erstwhile Fireman Gr.-II & Gr.-I).

3. Pursuant to an RTI application filed by an unsuccessful candidate, the respondents realized that the answer sheets of all the candidates had been checked with wrong set of answer key due to which, wrong result *qua* series 'B' & 'D' was prepared.

4. On realizing such mistake, the respondents recalled the result and appointments already granted to the candidates who were given question booklet 'B' & 'D'. The result was later on re-evaluated with correct answer key.

5. Learned counsel for the petitioner argued that there was no allegation of fraud or misrepresentation upon the petitioner and if there was any fault or negligence, the same was attributable to the respondents and therefore, the respondents could not have recalled or cancelled petitioner's appointment.

6. In support of petitioner's cause, learned counsel relied upon judgment of Hon'ble the Supreme Court rendered in the case of **Vikas Pratap Singh and Ors v. State of Chattishgarh** reported in (2013) 14 SCC 494 and **Rajesh Kumar and Ors. v. State of Bihar** reported in (2013) 4 SCC 690.

7. Learned counsel for the respondents on the other hand, invited Court's attention towards the communication dated 05.02.2019 and submitted that the said order contains each fact relevant to the issue, including that an RTI application came to be filed and in furtherance thereof, the respondents realized that there was an apparent error in scrutiny of the answer sheet which was noticed by a Specially Constituted Board constituted on 27.12.2018.

8. He further submitted that it is not the petitioner alone, whose result has been revised and appointment has been cancelled, rather a total of 32 appointments have been recalled and asserted that these 32 candidates were



the candidates to whom question booklet 'B' & 'D' were supplied.

9. Learned counsel for the respondents submitted that the judgments cited by learned counsel for the petitioner are not applicable in the facts of the present case, firstly, because the order impugned recalling/cancelling the appointment order has been issued within less than 60 days, and secondly, that the said judgments cited by learned opposite counsel, are peculiar in relation to the facts inasmuch as in both the cases the appointment *qua* one of the candidates was cancelled and he had remained in employment for a considerable time.

10. He further submitted that the judgments of Hon'ble the Supreme Court which have been passed in the peculiar facts of the case, are in exercise of powers of Hon'ble Supreme Court under Article 142 of the Constitution of India and the same cannot be taken to be a binding precedent to follow.

11. In rejoinder, learned counsel for the petitioner submitted that the respondents have not informed the Court as to whether the petitioner got selected or not in the revised result/corrected merit list.

12. Heard learned counsel for the parties and perused the record.

13. So far as impugned communication dated 05.02.2019, cancelling petitioner appointment is concerned, we are of the view, no error can be found therein. It will not be out of place to reproduce para nos. 2 & 3 of the result of the order impugned dated 05.02.2019 which reads thus:

"2. Whereas in accordance with result published, Shri Manoj Kumar has been provisionally selected and appointed as Fireman vide ND(Mbi) offer of appointment letter DYP/P/9108/FBS(DR)/2018/44 dated 05 Dec 2018 and posted to ND(MBI).

3. Whereas a RTI request seeking clarification on perceived evaluation discrepancies and errors in marks/result was received from one of the unsuccessful candidates. On thorough re-scrutiny of answer sheets by a specially constituted board the following has been observed:-

(a) The Question papers were prepared in four different sets namely A,B,C, and



D with respective answer keys.

(b) Separate answer key for these four sets were prepared by recruitment board. However, it came to light that inadvertently the answer keys of set B and D were interchanged during evaluation process resulting in discrepancy and inadvertent errors in marks awarded to candidates who attempted B and D sets of question paper.

(c) On re-evaluation of answer sheets with correct answer key it was observed that, some of candidates who appeared for question set B and D scored higher marks in written examination but were not called for Physical test earlier (due to the said inadvertent error in answer key used for evaluation). ”

14. A simple look at the order impugned unravels that the respondents realised the discrepancy rather mistake in the scrutiny of the answer sheet and they immediately took a decision to recall the appointments already granted and revise the result, when such discrepancy came to light.

15. Considering that it was not the sole case of the petitioner whose appointment order had been cancelled and there were 32 such candidates whose appointment stood cancelled after the mistake came to light, we are of the view that the respondents were neither at fault nor can their action be said to be arbitrary or illegal in manner.

16. According to us, once the mistake has come to the notice of the respondents, it was their duty to correct the error which had crept in and if such error is corrected and the petitioner gets out of the merit list as per the revised list, the respondents cannot be blamed inasmuch as the said revised result is the correct result.

17. Had the answer booklet of question set ‘B’ & ‘D’ were properly evaluated, perhaps the petitioner would not have been shown in the merit list and thereby issued appointment order.

18. The error which as an apparent and as serious cannot be allowed to perpetuate on the hollow ground that the petitioner was not at fault. Maybe the petitioner did not mislead but he locked merit. Merit cannot be compromised



and meritorious candidates cannot be made to suffer.

19. That apart, since the order impugned was passed on 05.02.2019, almost immediately after the appointment order was issued on 05.12.2018, we do not even find any case warranting sympathetic consideration, even applying the judgments which learned counsel for the petitioner had cited. Though these judgments were passed in facts peculiar to those cases.

20. So far as judgment in the case of **Vikas Pratap Singh (supra)** cited by learned counsel for the petitioner is concerned, a perusal of the facts involved therein reveals that there was selective re-evaluation of the answer sheets while preparing the second select list. Consequent whereupon, the appointment of the petitioner therein was cancelled in spite of the fact that he had served for more than 3 years.

21. These are the two distinguished features of the present case from the facts of the **Vikas Pratap Singh (supra)** case inasmuch as in the present case the re-evaluation was not selective and the same was made applicable to all the candidates who were given booklet nos. 'B' & 'D' and also because the petitioner had served for only about 2 months when his appointment came to be cancelled.

22. Moving on to **Rajesh Kumar (supra)**, it is to be noted that consequent to writ petition filed by the unsuccessful candidate, learned Single Judge so also the Division Bench cancelled the examination and directed the respondent to conduct fresh examination. In such event, Hon'ble the Supreme Court held that conducting of fresh examination consequent to cancellation of the earlier result is not a proper exercise to be conducted, but it should be re-evaluation of the answer keys by an expert committee.

23. Dealing with such factual situation, Hon'ble the Supreme Court saved



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the appointments already granted to such of the candidates who were earlier declared successful, more particularly, because they had served the State of Bihar for nearly 7 years.

24. These facts peculiar to the cases of **Vikas Pratap Singh (supra)** and **Rajesh Kumar (supra)**, do not persuade us to take the view which Hon'ble the Supreme Court had taken in the cases cited by learned counsel for the petitioner.

25. As an upshot of discussion foregoing, we do not find any merit and substance in the present writ petition for which it is hereby dismissed.

DINESH MEHTA, J.

RENU BHATNAGAR, J.

DECEMBER 8, 2025/nk