

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/020/00703/2021

Date of CAV: 10.03.2022

Order Pronounced on: 15.03.2022



Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member

Between:

Bandi Brahmaiah,
S/o. B. Venkateswarlu,
Aged 30 years, Occ: GDS BPM,
Bethapudi BO, a/w. Satuluru SO – 522549,
Narasaraopet Division, Guntur Dist, AP.

... Applicant

(By Advocate: Mr. B. Gurudas)

Vs.

1. Union of India Rep. by
The Secretary to the Govt. of India,
M/o. Communications & IT,
Dept of Post, New Delhi – 110 001.
2. The Chief Postmaster General,
AP Circle, Vijayawada – 520 013.
3. The Postmaster General,
Vijayawada Region, AP Circle,
Vijayawada – 520013.
4. The Superintendent of Post Offices,
Narasaraopet Division,
Narasaraopet, AP.

....Respondents

(By Advocate: Mr. Pavan Maitreya, proxy counsel for
Mr. R.V. Mallikarjuna Rao, Sr. PC for CG)

ORDER
(As per Hon'ble Mr. B.V. Sudhakar, Admn. Member)

2. The OA is filed in regard to non-selection of the applicant to the cadre of Multi Tasking Staff (*for short MTS*)



3. Brief facts of the case are that the applicant working as Grameen Dak Sewak in the respondents examination has appeared in the Multi Tasking Staff exam held on 11.10.2020 against notification dated 23.06.2020 and the results were announced on 31.12.2020. Applicant was not selected though he scored 92 marks out of 100 for the reason of excess bubbling in the OMR sheet with respect to his hall ticket number. Aggrieved, the OA is filed.

4. The contentions of the applicant are that the applicant has bubbled the Hall ticket number correctly and if the extra '0' bubbled under the digit 4 is ignored then the applicant can get selected on merit. The extra bubbling of the digit '0' was done by mistake. Representation dated 1.1.2021 submitted was not replied. Applicant cited the judgment of the Hon'ble Principal Bench in OA 4565 of 2014 to support his contention.

5. Respondents state in the reply statement that the applicant has not followed the instruction at point 4 of the question paper booklet supplied to him. Further, the instruction at point 4 of the admit card was not adhered to by the applicant. Invigilators reiterated the instructions during the exam and yet, the applicant wrongly bubbled the roll number. A candidate with 86

marks was selected. Correction of the answer sheet is done by the computer and no manual intervention is permitted vide letter dated 1.6.2020.

6. Heard both the counsel and perused the pleadings on record.



7. I. The dispute is about not selecting the applicant in the MTS exam held on 11.10.2020. The only aspect of the dispute that has to be resolved is as to whether the candidature of a candidate, who does not follow the mandatory exam instructions can be considered. The respondents have issued the following instructions in question paper booklet and hall ticket as under:

“4. An OMR answer sheet will be supplied to you separately by the invigilator to mark the answers. You must follow the instructions given in the OMR. You must write your Roll No, Question Booklet series and other particulars in the space provided on the OMR Answer sheet, failing which your OMR answer sheet will not be evaluated.”

Xx

“4. The candidate should strictly follow the instructions given by the Centre supervisor/ Room invigilator and those given on the Question Booklet.”

Even after the said instructions, the applicant has not noted the hall ticket properly. The applicant claims that the extra bubbling of ‘0’ was done by mistake. May be so, but there are others, who would have made a similar mistake and their candidature could have been rejected in a similar manner by the respondents. If the Tribunal were to consider the case of the applicant, then it would tantamount to doing injustice to them who are not before us. True, the applicant has scored more marks, but if the mandatory

instructions are not followed, then his candidature is liable to be rejected. It was the mistake of the applicant and there is no scope to ignore his mistake.

II. Moreover, Hon'ble Supreme Court has observed in ***State of Tamil Nadu & Ors v G. Hemalathaa & Anr*** in Civil Appeal No. 6669 of 2019, decided on 28.8.2019 that if the mandatory instructions are not followed then the candidature of the candidate need not be considered as under:



“10. In her persuasive appeal, Ms. Mohana sought to persuade us to dismiss the appeal which would enable the Respondent to compete in the selection to the post of Civil Judge. It is a well-known adage that, hard cases make bad law. In Umesh Chandra Shukla v. Union of India, Venkataramiah, J., held that:

“13.... exercise of such power of moderation is likely to create a feeling of distrust in the process of selection to public appointments which is intended to be fair and impartial. It may also result in the violation of the principle of equality and may lead to arbitrariness. The cases pointed out by the High Court are no doubt hard cases, but hard cases cannot be allowed to make bad law. In the circumstances, we lean in favour of a strict construction of the Rules and hold that the High Court had no such power under the Rules.”

11. Roberts, CJ. in *Caperton v. A.T. Massey* held that:

“Extreme cases often test the bounds of established legal principles. There is a cost to yielding to the desire to correct the extreme case, rather than adhering to the legal principle. That cost has been demonstrated so often that it is captured in a legal aphorism: “Hard cases make bad law.”

12. After giving a thoughtful consideration, we are afraid that we cannot approve the judgment of the High Court as any order in favour of the candidate who has violated the mandatory Instructions would be laying down bad law. The other submission made by Ms. Mohana that an order can be passed by us under Article 142 of the Constitution which shall not be treated as a precedent also does not appeal to us.”

In view of the Hon'ble Supreme Court judgment as at above, the verdict of the Hon'ble Principal Bench in OA No.4565 of 2014 relied upon by the applicant would not come to his rescue. The Tribunal dealt with identical cases in OAs 298/2020 & 483/2020 and did not grant the similar

relief sought. The observations in the said OAs squarely cover the case of the applicant as well. Therefore, the other contentions made by parties being irrelevant, are not being commented upon.



III. Therefore, in view of the aforesaid circumstances, we do find any merit in the OA as per rules and law. Hence, it is dismissed, with no order as to costs.

(B.V. SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/evr/