

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH  
HYDERABAD**

**OA/021/00819/2020**

**Date of Order: 10.03.2022**



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

Between:

K. Chandan Kumar, S/o. Narsaiah,  
Aged 30 years, Offtg Inspector of Post,  
Hyd East Sub Dn,  
Hyd South East Dn,  
Hyderabad – 500 002, TS.

... 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, Dak Sadan,  
Sansad Marg, New Delhi – 110 001.
2. The Chief Postmaster General,  
Telangana Circle, Hyderabad – 500001, TS.
3. The Postmaster General,  
Hyderabad HQrs Region,  
Hyderabad – 500 001, TS.
4. The Sr. Supdt. of POs,  
Hyderabad South East Dn,  
Hyderabad – 500 002, TS.

....Respondents

(By Advocate: Mrs. K. Rajitha, Sr. PC for CG)

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

2. The OA is filed in regard to selection to the post of Inspector of Post offices.



3. Brief facts of the case are that the respondents' organization conducted the Limited Departmental Competitive Examination (for short *LDCE*) for selection to the post of Inspector of Post office (for short *IP*) in Nov-2019 against notification dated 9.9.2019, in which the key was revised and the exam result announced. Applicant cleared the examination as per the result declared on 24.6.2020 and was posted as *IP* on a regular basis on 26.6.2020. However, just before his relief instructions were issued on 29.6.2020 to not to relieve him. The key of the exam was revised the third time and the results were declared on 13.11.2020 wherein the applicant was not selected for the reason of revaluation of answer sheets as per revised key. Aggrieved the OA is filed.

4. The contentions of the applicant are that the respondents have relieved 31 candidates selected from Orissa Postal circle vide letter dated 29.6.2020 but not the applicant. The key of the exam was revised twice earlier due to some discrepancy vide letters dated 15.1.2020 & 20.1.2020 respectively. The third key also has many mistakes. Rules regarding evaluation of answer sheets were not followed. In the third key there are mistakes as furnished in Annexure XIII (D series). Correct questions were ignored. If marks were to be allotted as per Annexure XIII applicant will get more marks than those selected subsequently. Wrong answers were

taken as right and right as wrong. The revision of key and valuation of the answer sheets amounts to revaluation of the answer sheets which is not permitted as per postal manual-IV part I. The respondents have made the mistake and the applicant has not resorted to any exam related malpractices.



The applicant should not suffer for the mistake of the respondents as per settled law. No notice was issued informing the applicant about his non selection. After posting the applicant to a regular vacancy and not allowing him to join without citing reasons is illegal. Another candidate was selected in his place which is incorrect. If as a result of the revision of the key in case other candidates are selected then they have to be adjusted against existing or future vacancies but not in the place of the selected candidates. Such procedure was adopted by the respondents in respect of IP and Group B post selections in the year 2013 vide respondents letters dated 8.1.2013, 22.11.2013 & 25.11.2013 respectively. As per DOPT letter dated 8.2.1982 the candidates first selected have to be given appointment before the subsequently selected candidates. A single exam was conducted for vacancies of different years. Non selection of the applicant is violative of articles 14 & 21 of the constitution of India.

5. Respondents state that after declaration of the result in regard to the selection to the post of IP against notification dated 9.9.2019 on 24.6.2020 it has come to notice that there were some discrepancies in regard to the key to the answers for paper IV and hence orders were issued not to relieve the selected candidates vide order dated 29.6.2020 to join as IP. A committee has gone into the discrepancies and after approval of the

recommendations of the committee by the competent authority, the results were announced on 13.11.2020 where in the name of the candidate does not figure on the basis of merit. The provisional keys are published in the departmental web site to enable the candidates to raise any objections and that they are not final. The revision of the key was done once. The selection of the candidates to IP cadre in Orissa circle was also cancelled subsequently based on the letter dated 29.6.2020. The Hon'ble Supreme Court has observed that if there is a provision in the statute to reevaluate the answer sheets then the court can order the same. Para 7 of the letter dated 24.6.2020 it is stated that if any mistake is found in announcing the results the selection can be cancelled. None of the candidates selected as per memo dated 24.6.2020 from Telangana Postal Circle were allowed to join as IP. The applicant has not exhausted the remedy of appeal against letter dated 13.11.2020 as is required under section 20 of A.T act. RR of IP does not specify that the exams have to be conducted year wise and that a single exam was conducted with selection declared by 3 separate lists. The candidate having participated in the exam cannot turn back and challenge the exam process. In regard to para 5.11 of the OA the revision of results occurred on receipt of objections and based on the decision of the competent authority/ Courts. The DOPT memo dated 8.2.1982 is not relevant since it deals with the validity period of the list of selected candidates prepared on the basis of the Direct Recruitment/ LDCE. The decisions of the Hon'ble Supreme Court relied upon by the applicant are in *personam* whereas it is settled in law that a candidate selected erroneously must not reap the benefits of wrongful appointment. Mere inclusion of a candidate in the selection list will not confer the vested right to appointment



as observed by the Hon'ble Supreme Court in Punjab SEB v Malkiat Singh. Respondents have cited certain other judgments of the superior judicial fora in support of their contentions. The contention of the applicant that no notice was issued is a wrong submission since the applicant has himself admitted that revision of key should not be an unending process.



Examinations are held as per the calendar of exams published in advance. Candidates on merit are selected on the basis of merit as per para 8 of Postal Manual Vol. IV part I. 29 new candidates find place in the final selection list and if the contention of the applicant to accommodate these candidates against future/existing vacancies along with the applicant then there are 67 candidates who are to be adjusted which is not practical.

6. Heard both the counsel and perused the pleadings on record.
7. I. The dispute is about the non- selection of the applicant to the post of IP against notification dated 9.9.2019. From the facts, it is evident that the applicant cleared the exam held against the said notification as per the results declared on 24.6.2020 and was posted as IP vide memo dated 26.06.2020. However, applicant has not been relieved by the order dated 29.6.2020 of the respondents.

II. Primarily, we agree with the respondents contentions that the DOPT memo dated 8.2.1982 is not applicable as it deals with the validity period of the list of selected candidates prepared on the basis of the Direct Recruitment/ LDCE. Revaluation of the answer sheets is permitted if there is a provision in the statutory rules. The candidates selected as per memo dated 24.6.2020 from Telangana Postal Circle were not allowed to join as IP along with the applicant which was not refuted. In regard to Orissa circle

the selected candidates on joining as IP were later reverted as per the details furnished in the reply statement and not contested by the applicant.

A single exam can be conducted clubbing the vacancies of different years provided the results are announced year wise which the respondents followed. Respondents have revised the key once as per details furnished which was not rebutted by the applicant. Provisional display of key in the departmental web site to seek objections cannot be considered as final revision of the key.



III. However, Respondents claim that there was some discrepancy in regard to the key of paper IV and hence a review committee was constituted to examine the aspect. Based on the recommendations of the review committee and the approval of competent authority the revised key was adopted and results announced afresh on 13.11.2020 where in the applicant's name did not figure on the basis of merit. Respondents state that the applicant having participated in the exam cannot challenge the same on being unsuccessful. However, they can, if there are illegalities noticed in the selection process as per the legal principle laid down by the Hon'ble Apex Court in **Ramjit Singh Kardam vs Sanjeev Kumar on 8 April, 2020 in CIVIL APPEAL NO.2103 OF 2020 (Arising out of SLP(C) No. 35373 of 2013)**, as under:

*39. XXX When Commission had not published any criteria on the basis of which candidates were going to be subjected for selection process and the candidates participated in the selection without knowing the criteria of selection, they cannot be shut out from challenging the process of selection when ultimately they came to know that Commission step by step has diluted the merit in selection. When candidate is not aware of the criteria of selection under which he was subjected in the process and the said criteria for the first time is published along with final result dated 10.04.2010, he cannot be estopped from challenging the criteria of selection and the entire process of selection. Further when the written examination as notified earlier was scrapped and every eligible candidate was called for interview giving a go*

bye to a fair and reasonable process for shortlisting the candidates for interview, that too only by Chairman of the Commission whereas decision regarding criteria of selection has to be taken by Commission, the candidates have every right to challenge the entire selection process so conducted. This Court in *Raj Kumar and Others Vs. Shakti Raj and Others*, (1997) 9 SCC 527 held that when glaring illegalities have been committed in the procedure to get the candidates for examination, the principle of estoppel by conduct or acquiescence has no application. Referring to judgment of this Court's judgment in *Madan Lal (supra)*, this Court laid down following in paragraph 16:-



“16. ....The entire procedure is also obviously illegal. It is true, as contended by Shri Madhava Reddy, that this Court in *Madan Lal v. State of J&K*, (1995) 3 SCC 486 and other decisions referred therein had held that a candidate having taken a chance to appear in an interview and having remained unsuccessful, cannot turn round and challenge either the constitution of the Selection Board or the method of selection as being illegal; he is estopped to question the correctness of the selection. But in his case, the Government have committed glaring illegalities in the procedure to get the candidates for examination under the 1955 Rules, so also in the method of selection and exercise of the power in taking out from the purview of the Board and also conduct of the selection in accordance with the Rules. Therefore, the principle of estoppel by conduct or acquiescence has no application to the facts in this case. Thus, we consider that the procedure offered under the 1955 Rules adopted by the Government or the Committee as well as the action taken by the Government are not correct in law.”

In the instant case the applicant has questioned the key finalized by the respondents as per annexure XIII of the OA which remains unanswered. Incidentally in the instant case the applicant cleared the exam as per their memo dated 24.6.2020. The said result had to be reviewed because of the mistake committed by the respondents and not that of the applicant. Hence the said contention of the respondents is not maintainable.

IV. The further contention of the respondents is that a candidate who was selected on an erroneous basis does not have a right for appointment. In the instant case the applicant has raised a specific contention that there are many mistakes even in the latest key as per annexure XIII based on which the final selection vide memo dated 13.11.2020 was announced. The applicant has pointed out as many as 14

mistakes. The respondents have not responded to this contention. Therefore, it is premature on part of the respondents to state that the selection of the applicant was erroneous and hence the decisions of the Hon'ble Apex Court in Ramnath Singh v UOI & Ors (2000) and Vikas Pratap Singh and Ors v UOI and Ors (2013) relied upon by the respondents does not apply to the case of the applicant without examining as to whether the objections raised by him are valid or otherwise. So too the judgment of the Hon'ble Supreme Court in Punjab SEB v Malkiat Singh relied upon by the respondents as they cannot be arbitrary in taking administrative decisions. The other judgments cited by the respondents are not relevant given the facts and circumstances of the instant case.



V. On the contrary, as held by the Hon'ble Supreme Court in *Anoop Kumar vs. State of Haryana* on 15 January 2020 in Civil Appeal No.315/2020 (arising out of SLP(C) 18321/2011, an administrative decision has to be fair, just and reasonable. We find none in the instant case. When the respondents could revise the key based on receipt of objections, the respondents are duty bound to answer as to why the objections raised by the applicant are right or wrong. Without doing so, denying the selection an IP is unfair, unjust and unreasonable. Moreover we are surprised by the respondents claim that the contention of the applicant to issue notice before taking a decision which has adverse civil consequence is a wrong submission. The Principles of Natural Justice require that the person has to be heard, who is unfavorably affected by an administrative decision before a final decision is taken on the matter. If not, the

decision would be held to have caused injustice as held by the Hon'ble Supreme Court in *Canara Bank v. Debasis Das*, (2003) 4 SCC 557, as under:



*16. Principles of natural justice are those rules which have been laid down by the courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial, quasi-judicial and administrative authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice.*

Hence the decision of the respondents to reject the claim of the applicant is void in law for having violated the Principles of Natural Justice.

VI. The respondents have admitted that the competent authority has revised the key while responding to para 5.11 of the OA and it is not expounded as to why they have not adopted the same line of approach in the instant case. Uniformity in taking decisions in identical circumstances is the basic tenet in the system of delivery of Justice. We are also not in agreement with the contentions of the respondents that the verdicts of the superior judicial fora relied upon by the applicant are not relevant by stating that they are in *personam* without drawing our attention to specific observations of the Hon'ble Apex Court to the said extent in the cited verdicts.

VII. Respondents claim that candidates are selected on the basis of merit as per Para 8 of Postal Manual Vol. IV Part I. However, rules laid down in the Postal Manual do not have a statutory basis as per their own instructions.

Further the question of merit cannot be said to have been settled unless the objections raised by the applicant are not responded to as per rules and law. Law applies equally to the respondents and the applicant. Respondents cannot change the key as and when they decide and remain indifferent when some objections are raised by the stake holders. Law does not permit such an approach since it would demonstrate a colourable exercise of power.



VIII. The contention of the respondents that the applicant has not appealed against the decision in letter dated 13.11.2020 does not hold good since no objection was raised at the time of the admission of the OA and hence section 20 of the AT act is not violated. Respondents also assert that as per para 7 of the letter dated 24.6.2020 it is stated that if any mistake is found in announcing the results the selection can be cancelled. The same logic rebounds towards the respondents equally from the point of the view of the applicant demonstrating the need to cancel the results, since he has pointed out mistakes galore in Annexure XIII of OA in respect of the key based on which the selection was finalized vide memo dated 13.11.2020. The respondents need to remember that there are four fingers pointing towards them asserting that they have to first look at their follies when they raise one finger towards the applicant claiming that his contentions are fallacious. The law of Nature cannot be ignored.

IX. It is evident that since the respondents made a mistake the key had to be revised and it should not recoil on the applicant without properly

addressing the grievance raised. The respondents did not do so and hence revisiting the request of the applicant is necessary. The judgments cited by the applicant in regard to the above apply to the case on hand. The question of accommodating additional 67 candidates as claimed by the respondents arises only when the sanctity of the final key is settled beyond doubt. As long as the objections raised are not settled to the satisfaction of the stakeholders the legal tussle would be an ongoing affair. Respondents need to note the same. Other contentions raised by both the parties have been gone through and since they are not relevant to arrive at the conclusion they have not been referred to.



X. In view of the foregoing, we direct the R-1 to form an appropriate committee with senior officers having expertise in the domain of examinations for examining the objections raised by the applicant at Annexure XIII of the OA. Based on the recommendation of the said committee the competent authority has to take an appropriate decision in the matter in accordance with rules/law and communicate the same to the applicant by a reasoned and speaking order. Time allowed to implement the judgment is 3 months from the date of receipt of this order. Till then, interim order granted shall hold good.

XI. With the above direction, the OA is disposed of with no order as to costs.

**(B.V. SUDHAKAR)**

**ADMINISTRATIVE MEMBER**

*/evr/*

**(ASHISH KALIA)**

**JUDICIAL MEMBER**