

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.2735 of 2002

New Delhi, this the 9th day of April 2003

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.K. MALHOTRA, MEMBER (A)

N. Gin Sian Lian LDC
Doordarshan, CPC
Asiad Village Complex,
New Delhi-49.

....Applicant

(By Advocate : Shri S.C. Saxena)

Versus

1. Union of India
Through Secretary
Ministry of Personnel
Public Grievances and Pension
North Block, New Delhi.
2. Chairman
Staff Selection Commission
Block No.12,
Kendriya Karyalay Parisar,
Lodhi Road, New Delhi.
3. Director General
Prasar Bharati, Doordarshan,
Mandi House, Coopers Marg,
New Delhi.

....Respondents

(By Advocate : Shri S.Mohd. Arif)

ORDER (ORAL)

BY SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN :

By virtue of the present application, the applicant seeks quashing of the order passed by the Staff Selection Commission, New Delhi, dated 1.10.2002 and further to direct that no action should be taken against the applicant in pursuance of the letter of 1.10.2002 in controversy before us.

2. The applicant had taken the test conducted by the Staff Selection Commission for the post of Lower Division Clerk. A complaint was received about the alleged impersonation by the applicant. A preliminary

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inquiry had been initiated in the Staff Selection Commission to look into the suspected impersonation allegedly adopted by the applicant in the type-writing test so conducted. The applicant's specimen handwriting and signatures were obtained from the office of the applicant and his dossier has also been called. The records, as referred above, which were in question, were sent to the Government Examiner for verification and the opinion of the expert. The report received was that the specimen handwriting and signatures as obtained earlier from the applicant did not tally with the handwriting or signature on the answersheet. A show-cause notice had been served on the applicant. The applicant replied to the same and in pursuance thereto the impugned order referred to above was passed, which reads as under:-

"4. Shri N. Gin Sain Lian was given an opportunity to Show Cause as to why penal action should not be taken against him for the malpractice and misconduct on his part in as much as he had procured impersonation at skill test stage of the SSC's Examination. His reply to the show cause notice has been received through his office and has been considered in the Commission. His reply to the show cause notice has not been found satisfactory. The commission therefore treats the opinion of the Government Examiner of Questioned Documents, Shimla as final proof of mismatch of signatures by candidate in various documents. The alleged impersonation is therefore considered to be proved.

5. In view of the above circumstances, the Commission hereby cancels the candidature of Shri N.Gin Sain Lian bearing Roll No.1216235 for the Clerks Grade Examination, 1997. Considering the seriousness of the offence, the Commission also debars him life long for all future examinations of SSC."

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3. The learned counsel for applicant while assailing the impugned order urges : (a) no documents had been supplied; (b) no personal hearing had been accorded and (c) the applicant cannot be debarred for life long from taking test.

4. Learned counsel for the respondents had drawn our attention to the fact that under the scheme of the examination, in case of impersonation, a person can be debarred permanently from taking test by the Commission and further that the show-cause had been given and reply considered and, therefore, the impugned order is justified.

5. In the facts of the present case, on perusal of the record, we find that the contention of the applicant on the technical aspect, the arguments (a) and (b) above, the same should be allowed.

6. Reasons are obvious and not far to fetch. This is obvious that in pursuance to the show-cause notice, the respondents had not supplied the copy of the documents referred to in the complaint or the opinion of the hand-writing expert. It is also admitted that personal hearing had not been given to the applicant.

7. The position in law is well settled that whenever such a case is contemplated, rules of natural justice, which have made deep in-^{roads}~~roads~~ into our jurisdiction, cannot be dispensed without affording fair opportunity which has to be reasonable keeping in

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view the ends of justice. In the case of Board of High School & Intermediate Education, U.P. Allahabad Vs. Ghanshyam Das Gupta and others, SUPREME COURT REPORTS (1962) SUPP. 36, some of the similar arguments as advanced in the present case have been argued before the Supreme Court. The Supreme Court held that keeping in view the nature of the order debarring a candidate, in fairness, an opportunity of being heard should be given. The findings of the Supreme Court reads as under:-


"We thus see that the Committee can only carry out its duties under r.1 (1) by judging the materials, placed before it. It is true that there is no lis in the present case, in the sense that there are not two contesting parties before the Committee and the examinee; at the same time considering that materials will have to be placed before the Committee to enable it to decide whether action should be taken under r. 1 (1), it seems to us only fair that the examinee against whom the Committee is proceeding should also be heard. The effect of the decision of the Committee may in an extreme case blast the career of a young student for life and in any case will put a serious stigma on the examinee concerned which may damage him in later life."

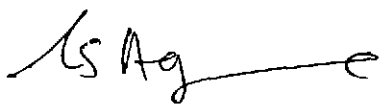
6. What is the position here? The applicant had not been provided the copy of the complaint and the report of the hand-writing expert though a show-cause notice was given. But in all fairness, the applicant would be well armed to answer the same only if the important documents relied upon by the Commission are supplied to the applicant. In addition to that the applicant was not heard.

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9. Taking stock of the said facts and the ratio desi dendi of the decision of the Supreme Court in Ghanshyam Das Gupta's case (supra), we are of the considered opinion that the impugned order cannot stand scrutiny. It should necessarily be quashed.

10. For these reasons, we allow the present application and the impugned order dated 1.10.2002 is quashed. The respondents would be at liberty to proceed from the stage of show-cause notice and take appropriate action as deemed fit, in view of what has been stated above.


(S.K. Malhotra)
Member (A)


(V.S. Aggarwal)
Chairman

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