



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.3004/2019
M.A.No.3331/2019
M.A.No.105/2020
With
O.A. No.206/2020
O.A. No.3657/2019
O.A. No.3480/2019
O.A. No.27/2020
O.A. No.160/2020
O.A. No.28/2020
O.A. No.29/2020
O.A. No.221/2020
M.A. No.301/2020
M.A. No.302/2019
O.A. No.272/2020

Thursday, this the 30th day of January 2020

Hon'ble Sri Justice L. Narasimha Reddy, Chairman
Hon'ble Sri A. K. Bishnoi, Member (A)

O.A. No.3004/2019

1. Ritu w/o Ajay Rathi, age 28 years
Group B, Working as DYC
r/o 243, Village Majri, PO Gubhana
Jhajjar, Haryana 1240105
2. Kajal d/o Sh. Rajender Singh
Age 24 years
Group B, Working as DYC
r/o VPO Bastara, Teh. Gharaunda
Karnal, Haryana
3. Pradeep Kumar s/o Mahender Kumar
Age 24 years
Group B, Working as DYC
R/o H.No.1289, Gali No.4
Group B Sundama Nagar, Sonipat
Haryana 131001
4. Mrs. Seema w/o Sonu
Age 28 years
Group B, Working as DYC
r/o Chopal Jauli, Jauli
Sonipat Haryana



5. Harbir s/o Jagat Singh
Age 27 years
Group B, Working as DYC
r/o VPO Patuhera Teh. Israna
Panipat, Haryana
6. Manisha w/o Joginder singh
Age 28 years
Group B, Working as DYC
r/o VPO Subana, Gokal Temple
Distt. Jhajjar, Haryana

..Applicants

Versus

1. Union of India
Through Secretary
Ministry of Youth Affairs & Sports
Govt. of India, New Delhi
2. Nehru Yuva Kendra Sangathan
Ground Floor, 4 Jeevan Deep Building, Parliament
Street,
New Delhi – 110 001

...Respondents

O.A. No.206/2020

Shalu
d/o Ranbir Singh
r/o H.No.595, Ward No.29
Vikas Nagar, Kakkroi Road
Sonipat, Haryana 1331001
Age 25 years
Group B

..Applicant

Versus

1. Nehru Yuva Kendra Sangathan
Ground Floor, 4 Jeevan Deep Building, Parliament
Street, New Delhi – 110 001

...Respondent

O.A. No.3657/2019

Karan Pahwa, Group B
Aged about 25 years
s/o Sh. Gulshan Pahwa
r/o Poshak Mahal, Punjabi Bazar
Tonga Chowk, Jind, Haryana

..Applicant

Versus



1. Union of India
Through its Secretary
Ministry of Youth Affairs & Sports
Govt. of India, New Delhi
 2. Nehru Yuva Kendra Sangathan
Through its Director General
Ground Floor, 4 Jeevan Deep Building, Parliament
Street, New Delhi – 110 001
- ...Respondents

O.A. No.3480/2019

Smt. Jyoti Dahiya aged about 28 years
(DOB 18.11.1991) d/o Sh. Dilbagh Singh
And wife of Sh. Vikash Balal
r/o H. No.2102, Ward No.10
Ram Gopal Colony Rohtak
(Haryana), presently in New Delhi
Qtrs. No.169, Police Colony, Type II
Vikash Puri, Delhi – 110 18

..Applicant

Versus

1. Union of India
(Through Secretary)
Ministry of Youth Affairs & Sports
Govt. of India, New Delhi
 2. The Joint Director Personnel
Nehru Yuva Kendra Sangathan
Ground Floor, 4 Jeevan Deep Building, Parliament
Street,
New Delhi – 110 001
- ...Respondents

O.A. No.27/2020

Mahak, age 25 years
Post District Youth Coordinator
Sub Appointment Group A
d/o Sh. Dharambir
r/o H. No.100, Ward No.15
Adarsh Colony, Safidon, Haryana

..Applicant

Versus



1. Nehru Yuva Kendra Sangathan
Through its Director General
Nehru Yuva Kendra Sangathan
(An Autonomous Body under the
Ministry of Youth Affairs & Sports
Govt. of India)
4, Jeevan Deep Building, Ground Floor, Parliament
Street, New Delhi – 110 001
2. The Secretary
Ministry of Youth Affairs & Sports
Govt. of India,
Room No.401, C Wing, Shastri Bhawan
New Delhi – 110 001
3. The Dy. Director (Pers.)
Nehru Yuva Kendra Sangathan
(An Autonomous Body under the
Ministry of Youth Affairs & Sports
Govt. of India)
4, Jeevan Deep Building, Ground Floor, Parliament
Street, New Delhi – 110 001

...Respondents

O.A. No.160/2020

Anshu, aged about 27 years
d/o Sh. Azad Singh
resident of H.No.318, Ward No.30
Sonipat District Sonipat Haryana 131001
Haryana
Post District Youth Coordinator
Group A
Category Joining / Posting

..Applicant

Versus

Nehru Yuva Kendra Sangathan
(An autonomous body under the Ministry of
Youth Affairs & Sports Govt. of India)
Ground Floor, 4 Jeevan Deep Building,
Parliament Street,
New Delhi – 110 001
Through its Member Secretary

...Respondent

O.A. No.28/2020

Sh. Sachin, age 25 years
Post District Youth Coordinator
Sub Appointment Group A



s/o Sh. Rajvir
r/o VPO Bhainswal Kalan
Tehsil-Gohana, District Sonapat
State Haryana, PIN 131409

..Applicant

Versus

1. Nehru Yuva Kendra Sangathan
Through its Director General
Nehru Yuva Kendra Sangathan
(An Autonomous Body under the
Ministry of Youth Affairs & Sports
Govt. of India)
4, Jeevan Deep Building, Ground Floor, Parliament
Street, New Delhi – 110 001
2. The Secretary
Ministry of Youth Affairs & Sports
Govt. of India,
Room No.401, C Wing, Shastri Bhawan
New Delhi – 110 001
3. The Dy. Director (Pers.)
Nehru Yuva Kendra Sangathan
(An Autonomous Body under the
Ministry of Youth Affairs & Sports
Govt. of India)
4, Jeevan Deep Building, Ground Floor, Parliament
Street, New Delhi – 110 001

...Respondents

O.A. No.29/2020

Sh. Raghav, age 28 years
Post District Youth Coordinator
Sub Appointment Group A
s/o Sh. Shiv Pratap Garg
r/o H. No.845, Sector 14
Sonipat, Haryana

..Applicant

Versus

1. Nehru Yuva Kendra Sangathan
Through its Director General
Nehru Yuva Kendra Sangathan
(An Autonomous Body under the
Ministry of Youth Affairs & Sports
Govt. of India)
4, Jeevan Deep Building, Ground Floor, Parliament
Street, New Delhi – 110 001



2. The Secretary
Ministry of Youth Affairs & Sports
Govt. of India,
Room No.401, C Wing, Shastri Bhawan
New Delhi – 110 001
3. The Dy. Director (Pers.)
Nehru Yuva Kendra Sangathan
(An Autonomous Body under the
Ministry of Youth Affairs & Sports
Govt. of India)
4, Jeevan Deep Building, Ground Floor, Parliament
Street, New Delhi – 110 001

...Respondents

O.A. No.221/2020

1. Vinay Malik, aged about 27 years
s/o Sh. Harpal Singh
r/o VPO Buana Lakhu, Teh. Israna
Distt. Panipat, Haryana 132107
Post District Youth Coordinator
Group A
2. Monika, age about 28 years
w/o Sh. Vikas
r/o VPO Kawi Tehsil Madlauda
District Panipat, Haryana 132113
Post District Youth Coordinator
Group A
3. Sushila Devi, aged about 28 years
d/o Sh. Ram Gopal
r/o H. No.2401/10, Street No.15
Ram Gopal Colony
Sonipat Road, Rohtak, Haryana 124001
Post District Youth Coordinator, Group A
4. Sadhana, aged about 28 years
w/o Sh. Anil
r/o VPO Sanghi Pana Bodan, Rohtak
Haryana 124303
Post District Youth Coordinator, Group A
5. Pawan Singh, aged about 26 years
s/o Sh. Kamal Singh
r/o Ward No.9, VPO Tigrana
Khandera Panna, District Bhiwani
Haryana 127031
Post District Youth Coordinator, Group A

..Applicants

Versus



1. Union of India
Through its Secretary
Ministry of Youth Affairs & Sports
C Wing, Shastri Bhawan
New Delhi
2. Nehru Yuva Kendra Sangathan
Through its Director General
Govt. of India
Ground Floor, 4 Jeevan Deep Building, Parliament
Street, New Delhi – 110 001
3. Institute of Banking Personnel Selection (IBPS)
Through its Assistant Professor
Client Relations Division
Registered Office at IBPS House
Near Thakur Polytechnic
90 D P Road, Off Western Express Highway
Kandivali (East)
Mumbai 400 101

...Respondents

O.A. No.272/2020

Devendra Kumar, age 31 years
Post District Youth Coordinator
Sub Appointment Group A
s/o Sh. Kaptan Singh
r/o Ward No.12, Near Harijan Chopal
Kharkhoda, Sonipat, Haryana

..Applicant

Versus

1. Nehru Yuva Kendra Sangathan
Through its Director General
Nehru Yuva Kendra Sangathan
(An Autonomous Body under the
Ministry of Youth Affairs & Sports
Govt. of India)
4, Jeevan Deep Building, Ground Floor, Parliament
Street, New Delhi – 110 001
2. The Secretary
Ministry of Youth Affairs & Sports
Govt. of India,
Room No.401, C Wing, Shastri Bhawan
New Delhi – 110 001



3. The Dy. Director (Pers.)
Nehru Yuva Kendra Sangathan
(An Autonomous Body under the
Ministry of Youth Affairs & Sports
Govt. of India)
4, Jeevan Deep Building, Ground Floor, Parliament
Street, New Delhi – 110 001

...Respondents

For applicants:

(Sri M K Bhardwaj, Sri J R Rana, Sri Sachin Chauhan, Sri Jasbir Malik, Sri Anuj Aggarwal, Sri V P S Tyagi and Sri Sudhir Nagar, Advocates)

For respondents:

(Sri R Ramachandran, Ms. Lakshmi Gurung and Ms. Geetanjali Sharma, Advocates)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

In this batch of O.As. common questions of facts and law are involved. Hence, they are disposed of through this common order.

2. Nehru Yuva Kendra Sangathan (NYKS), one of the respondents in all the O.As., issued an Advertisement on 02.03.2019 proposing to fill 100 posts of District Youth Coordinators (DYC). The procedure involved the conducting of online examination and that, in turn, was entrusted to an agency, known as Institute of Banking Personnel Selection (IBPS). The written test was conducted on 30.04.2019 and the results thereof were



declared on 05.06.2019. Interview for short-listed candidates was conducted between 8th and 13th July, 2019. A final list of selected candidates was displayed on 07.08.2019. On 16.08.2019, the NYKS issued the offer of appointment to the applicants. On the same day, the applicants are stated to have accepted the offer. The police verification and medical examination is also said to have taken place on 19.08.2019. 20.08.2019 was stipulated as the date for submission of documents by the selected candidates and verification thereof.

3. It is stated that the orders of posting were issued to as many as 79 candidates on 20.08.2019, but the applicants were not issued such orders. They made representations on 23.09.2019 and 01.10.2019. When the representations were not attended to, O.A. No.3004/2019 was filed and on 11.10.2019, an interim order was passed by this Tribunal directing that in case the applicants therein have conveyed the acceptance of offer of appointment within the stipulated time, the respondents shall consider the feasibility of issuing orders of appointment to them. Some more O.As. were filed and interim orders were also passed.



4. On 28.11.2019, the 2nd respondent issued order stating that the candidature of the individual applicants is cancelled. It was mentioned that after the conducting of examination, the IBPS has informed that the applicants were found to have used unfair means in online examination conducted on 30.04.2019, and accordingly, their candidature is cancelled.

In this batch of O.As., the orders of cancellation of candidature are challenged and further directions are sought to the respondents to issue the orders of posting, as a sequel to the acceptance of offer of appointment.

5. The applicants contend that it was only after the verification of the process of conducting of examination from different angles, that the IBPS declared the results and that in turn, was followed by issuance of call letters for interview. It is stated that the applicants were subjected to interview, offers of appointment were issued to them, and that the respondents called them as orders of provisional appointment. The applicants contend that there is absolutely no basis for cancellation of their candidature, at that stage, after the acceptance was conveyed.



6. It is also stated that the respondents have violated the principles of natural justice, inasmuch as no notice was issued before the order of cancellation was issued, much less any valid reason was mentioned therein. Other contentions are also raised.

7. On behalf of the respondents, detailed counter affidavits are filed in each of the O.As. The fact that the applicants took part in the examination and they were issued the offer of appointment on the basis of performance in the written test and interview, is not disputed. It is, however, stated that on 16.09.2019, a complaint was received from one Mohit, alleging that the conducting of online examination at Shimla and Karnal Centers, was not proper and that quite large number of candidates from those Centers were selected, which throws some doubt as to the method of conducting of examination. It is stated that the complaint was forwarded to IBPS and the agency has analyzed the entire issue, and on the basis of the report received from them, the candidature of the applicants was cancelled. The respondents, however, did not mention the reasons as to why the notice was not issued to the applicants before their candidature was cancelled. It is stated that in place



of the applicants, some other candidates were issued the offer of appointment.

8. We heard Sri M K Bhardwaj, Sri J R Rana, Sri Sachin Chauhan, Sri Jasbir Malik, Sri Anuj Aggarwal, Sri V P S Tyagi & Sri Sudhir Nagar, learned counsel for applicants, and Sri R Ramachandran, Ms. Lakshmi Gurung & Ms. Geetanjali Sharma, learned counsel for respondents, at length.

9. The particulars of the conducting of online examination, declaration of the results, issuance of offer of appointment, are not in dispute. Everything went on in a systematic manner till the offer of appointment was issued to as many as 100 candidates, including the applicants, on 16.08.2019. Police verification was also conducted in respect of all the selected candidates and their certificates were submitted for verification. A typical offer of appointment dated 16.08.2019 reads as under:-

“Consequent upon your selection for the post of District Youth Coordinator, you are hereby offered provisional appointment as District Youth Coordinator in the Nehru Yuva Kendra Sangathan (NYKS) on the following terms & conditions:

1. Your designation will be District Youth Coordinator.
2. The post of District Youth Coordinator carries pay scale of level 10 (56100-177500) in Pay Level-



10. Your pay will be fixed according to Rules. You will be entitled to draw dearness and other allowances at the rates admissible and subject to the conditions laid down in Rules & Orders governing grant of such allowances, by Government of India, from time to time.

3. If you are already in Government Service, your pay will be fixed in the above pay structure in accordance with rules and conditions prevailing at the time. You must also produce a 'No Objection Certificate' and relieving order from present employer.

4. You will be on probation for a period of two years from the date of joining the post. The period of probation may, however, be extended at the discretion of the Competent Authority.

As regards, other matters relating to probation, the same shall be governed by the conditions laid down under Rules and instructions issued in this regard by the Government of India.

5. During probation, you will have the option of resigning, if you so desire, without any notice. Likewise, the Sangathan will be at liberty to terminate your services without any notice and without assigning any reason whatsoever, during the period of probation.

6. During the period of probation, you will be liable to be discharged from service at any time without any notice, if

- (a) On the basis of your performance or conduct, you are considered unsuitable for further retention in service; or
- (b) If you are otherwise found ineligible or unsuitable to be retained in service.

7. On satisfactory considered for confirmation in the post.

8. You will be liable to serve in any part of India during the service with NYKS.



9. Your appointment to the post of District Youth Coordinator is provisional and subject to submission of duly filled in following documents in prescribed formats which is attached. (If any of your claims with respect to the documents submitted is found incorrect/not verifiable or any false information s given by you in your self-declaration, your appointment will be cancelled forthwith and criminal/legal action will be taken, as a consequence):-

- i. Format for taking Oath
- ii. Character Certificate
- iii. Police Verification (Attestation Form)
- iv. Medical Fitness Certificate
- v. Statement of Immovable Property
- vi. Declaration regarding Marital Status

(The remaining part of the order is not quoted since it is not relevant.)

10. The applicants conveyed their acceptance of offer. The verification of certificates took place on 19.08.2019. It is exactly one month thereafter, that the order of posting / appointment was issued. The order dated 20.09.2019 reads:-

“Consequent upon the acceptance of the offer of appointment to the post of District Youth Coordinator (DYC) In Nehru Yuva Kendra Sangathan (NYKS) these selected DYCs are posted as DYCs in the respective district NYKs or as Asstt. Directors in the Headquarters/State Offices, NYKS as the case may be

Sl. No.	ROLL NO.	REG. NO.	NAME	PLACE OF POSTING
1.	1110000267	57170361	Akula Mahendra Reddy	Nellore, A.P.



2.	11100000453	57155689	Korada Manikanta	Cuddapah, AP
xx	xx	xx	xx	xx
79.	5910001667	57114006	Sourav Barman	Darjeeling, W.B.

11. It is here, deviation or departure took place. Though the offer of appointment was issued simultaneously to all the 100 candidates and the applicants have accepted the offer, their names were not included in the order dated 20.09.2019. In case there existed any reasons for doing that, the respondents were under obligation to convey them. One after the other, the applicants went on approaching the Tribunal, and even though an interim order was passed, the respondents proceeded to issue the orders dated 28.11.2019. It reads:

“1. Please refer to this office reference no. NYKS/Pers.: Apptmnt/DYV/809/2019 dated 16.08.2019.

2. As you are aware, it was already indicated in the Instructions attached to the Call letter for Online Examination-2019 (Batch-II) that “Your response (answer) will be analysed with other candidates to detect patterns of similarity of right and wrong answers. If in the analytical procedure adopted in this regard, it is inferred/concluded that the responses have been shared and scores obtained are not genuine/valid, your candidature may be cancelled and/or the result withheld.”

3. After conducting post-exam analysis of the answer sheets, it has since been informed by IBPS that you were found to have used unfair means in the online examination conducted on 30.04.2019.



4. Therefore, as already indicated to you in the Guidelines, your candidature in the said online examination hereby stands cancelled. Consequently, the offer of appointment letter No.NYKS/Pers: Apptmnt/DYV/809/2019 dated 16.08.2019 also stands canceled and withdrawn.

5. Please also note that NYKS reserves its right to take appropriate legal action both Civil and/or Criminal against you.

6. This issues with the approval of the Competent Authority.”

12. There is no reference to any specific acts or omission on the part of the applicants, warranting such action. Everything was pushed under the carpet of a clause contained in the call letter issued to the applicants and the so-called analysis by IBPS.

13. It is not uncommon that malpractices take place in the examinations conducted by various agencies. The law is fairly well settled that if any candidate is found to have resorted to malpractice, the agencies are entitled to take punitive actions. However, two aspects become relevant. The first is that before any punitive action is taken against a candidate, be it in the form of cancellation of candidature or debarring him for future examinations, the law requires that a show cause notice must be issued to him, indicating the nature of allegations. It is only after



the explanation offered by the candidate is considered, that a final order can be passed.

14. The second is that the action of this nature, if any, must be taken before the final results are declared. Once the results of candidates are declared, the agency cannot re-open the issue, that too, selectively.

15. Viewed in this context, the steps taken by the respondents cannot be countenanced. Firstly, no notice whatever was issued to the applicants for cancellation of offer of appointment or the order of provisional appointment.

16. In matters of such nature, the authority acts in a *quasi* judicial capacity. He is under an obligation to follow the principles of natural justice, before he takes a decision, which adversely affects a candidate, such as the applicants herein. The law is fairly well settled in this behalf.

17. A Constitution Bench of the Hon'ble Supreme Court in **Board of High School and Intermediate Education, UP v. Ghanshyam Das Gupta & others**, AIR 1962 SC 1110 dealt with the issue in detail. That was a case in which the result of candidates who appeared in



the examination was cancelled on the allegation that they had used unfair means in the examination. The decision was challenged in the High Court on the ground that the nature of allegations was not made available to them, and they were entitled to be given opportunity before a decision adverse to them was taken. The High Court took the view that the Board of High School Education was under an obligation to act judicially and to follow the principles of natural justice, and since there was a violation in this behalf, the writ petition was allowed. The matter was carried to the Supreme Court. Their Lordships held as under:

“11.... Considering therefore the serious effects following the decision of the Committee and the serious nature of the misconduct which may be found in some cases under R. 1 (1), it seems to us that the Committee must be held to act judicially in circumstances as these. Though therefore there is nothing express one way or the other in the Act or the Regulations casting a duty on the Committee to act judicially, the manner of the disposal, based as it must be on materials placed before it, and the serious effects of the decision of the Committee on the examinee concerned, must lead to the conclusion that a duty is cast on the Committee to act judicially in this matter particularly as it has to decide objectively certain facts which may seriously affect the rights and careers of examinees, before it can take any action in the exercise of its power under R. 1 (1). We are therefore of opinion that the Committee when it exercises its powers under R. 1 (1) is acting quasi-judicially and the principles of natural justice which require that the other party, (namely, the examinee in this case) must be heard, will apply to the proceedings before the Committee.



This view was taken by the Calcutta High Court in *Dipa Pal v. University of Calcutta*, A.I.R. 1952 Cal. 594 and *B.C. Das Gupta v. Bijoyranjan Rakshit*, A.I.R. 1953 Cal. 212 in similar circumstances and is in our opinion correct.”

18. In **Board of High School and Intermediate Education, UP & others v. Chittra Srivastava & others**, AIR 1970 SC 1039, the Hon’ble Supreme Court dealt with a case where the performance of a candidate in the examination was cancelled on the ground that she did not have requisite attendance. However, in the process, no notice was issued. The High Court granted relief, and confirming the same, the Supreme Court held as under:

“9. We agree with the High Court that the impugned order imposed a penalty. The petitioner had appeared in the examination and answered all the question papers. According to her she had passed. To deny her the fruits of her labour cannot but be called a penalty. We are unable to appreciate the contention that the Board in “cancelling her examination” was not exercising quasi-judicial functions. The learned counsel urges that this would be casting a heavy burden on the Board. Principles of natural justice are to some minds burdensome but this price a small price indeed – has to be paid if we desire a society governed by the rule of law. We should not be taken to have decided that this rule will also apply when a candidate is refused admission to an examination. We are not concerned with this question and say nothing about it.”

The instant case stands on a higher footing. Reason is that not only the results of the applicants were declared, but they were also issued the orders of provisional



appointment, but at a later stage, the orders were cancelled on the allegations of malpractices in the examination. Neither the nature of malpractices was indicated, nor was the material upon which the respondents relied upon, made available to the applicants.

The impugned order has the effect of cancelling:

- a) the performance of the applicants in the examination, and
- b) their selection and provisional appointment

In fact, those two are separate and independent aspects, though interrelated. There was a clear and flagrant violation of the principles of natural justice, and the procedure prescribed by law.

19. Secondly, the results were declared way back on 05.06.2019 and several steps, such as subjecting the candidates to interview and issuance of orders of provisional appointment, have taken place. It was not at all open to the respondents to re-open the issue, that too, without issuing notice to the applicants.

20. The manner in which the names of the applicants were excluded while issuing the order of posting dated 20.09.2019, and the sequence of events, that followed,



would indicate that the administration has a different plan with it, to operate.

21. Soon after the applicants found that their names were wrongfully excluded from the order of posting, they approached this Tribunal. The administration of any organization, which has the basic respect for principles of law, would have issued notices to the persons, whom the offer of appointment was issued, or at least deferred further steps till the entire issue is examined in detail. Once the issue landed before the Tribunal for adjudication, no responsible officer / authority would proceed to frustrate it by appointing persons in place of those, who were excluded from the order of posting.

22. Even while the batch of O.As. was pending before this Tribunal, the respondents have taken hasty steps in filling the vacancies, which were otherwise to be occupied by the applicants herein. It is stated that on 03.01.2020, offer of appointment was issued to as many as 17 candidates to fill the vacancies, as regards which the applicants were already issued the offer of appointment, but were cancelled. In the offer of appointment, the candidates were required to submit the following

documents in the prescribed formats. Clause 9 thereof reads:



“9. Your appointment to the post of District Youth Coordinator is provisional and subject to submission of duly filled in following documents in prescribed formats which is attached. (If any of your claims with respect to the documents submitted is found incorrect/not verifiable or any false information is given by you in your self-declaration, your appointment will be cancelled forthwith and criminal/legal action will be taken, as a consequence):-

- i. Format for taking Oath
- ii. Character Certificate
- iii. Police Verification (Attestation Form)
- iv. Medical Fitness Certificate
- v. Statement of Immovable Property
- vi. Declaration regarding Marital Status”

23. This process took one month for the candidates, who were issued offer of appointment on 16.08.2019. What shocks and surprises the Tribunal is that on the same date, i.e., 03.01.2020, a mail was sent to 17 candidates. It reads:

“Consequent upon the selection to the post of Assistant Directors/District Youth Coordinator (AD/DYC) in Nehru Yuva Kendra Sangathan, from the waiting list, advertisement dated 02.03.2019, for which online written examination was conducted on 30.04.2019 and personal interview were conducted from 08.07.2019 to 13.07.2019 the following officers are posted as District Youth Coordinators in the respective districts offices of NYKS, the posting order is attached herewith.

You are directed to join at your place of posting within 30 days of issuance of this posting order.”



24. The fraud that pervaded the entire episode is evident from the fact that on 06.01.2020, the candidates were informed that the offer of appointment is being issued and they must confirm their acceptance. It reads:

“Please find attached herewith of Provisional Appointment letter for the post of District Youth Coordinator based on online examination held on 30.04.2019 and Interview conduct from 08.07.2019 to 13.07.2019, advertisement dated 02.03.2019.

Please submit your acceptance by signing Provisional appointment letter to confirm your acceptance of the terms described in this appointment letter.

Your acceptance should reach this office (NYKS Hqrs, New Delhi) with all enclosures/attachments within 15 days of issuance of this appointment letter after that you may join your place of posing within 30 days from the issuance of this appointment letter.”

25. When the very offer of appointment was forwarded through letter dated 06.01.2020, it is just un-understandable as to how those very candidates were permitted to join duties on 03.01.2020 itself. Added to that, even before the acceptance in response to the letter dated 06.01.2020 was received, an office order was passed on 03.01.2020, which is similar to the one dated 20.09.2019 issued to 79 candidates. The result is that, for the regularly selected candidates, the offer of appointment was issued on 16.08.2019 and the order of posting was



passed on 20.09.2019, after completion of police verification and other formalities, and in contrast, for the 17 candidates, who were not in the list of selected candidates, offer of appointment and order of posting were issued on the same date, i.e., 03.01.2020, notwithstanding the letter dated 06.01.2020, requiring the candidates to convey their acceptance. There cannot be any better instance of gross misuse of power and commission of irregularities, than this. It is rather unfortunate that the organization at the national level, has resorted to such gross illegalities, malpractices and irregularities. We take serious exception to the manner in which the entire issue was handled.

26. In case the respondents found any unfair means on the part of the applicants, nothing prevented them from proceeding against the applicants in accordance with law. The record discloses that a letter dated 16.09.2019, is said to have been received from one Mohit (who was not even a candidate) after the offer of appointment was issued to as many as 100 candidates and that became handy for the respondents to deny the applicants the benefit of offer of appointment.



27. It is not as if an expert agency and reputed agency, like IBPS, has expressed any doubts about the performance of the candidates at any stage. It is only after they received a letter from one Mohit, that the respondents have forwarded the same to IBPS. We do not propose to deal with what transpired between the respondents and the IBPS. The reason is that it is only when the specific allegation is made against any particular candidate proposing to cancel his candidature, that the relevance thereof can be considered.

28. The so-called appointment of 17 candidates is nothing but the gross misuse of power and playing with the lives of unemployed persons. In their anxiety to get those 17 persons, the administration has violated and flouted all the norms and principles of law. Their conduct is despicable and the higher administration needs to examine whether various steps, indicated in the said order, are the result of any pre-mediated plan to help someone, for obvious reasons.

29. Even in the order dated 20.09.2019, through which 79 candidates were given posting, a clause was incorporated. It reads “Your appointment and posting is



subject to final outcome of investigation by IBPS regarding online examination held on 30.04.2019”. It means that the respondents reserved to themselves, the right to take action if anything objectionable is found. The applicants too can be issued posting orders by incorporating the same conditions.

30. We, therefore, allow the O.A. and set aside the individual orders dated 28.11.2019. In view of the fact that the applicants have already accepted the offer and other candidates were issued the order of posting, the respondents shall issue orders of posting to the applicants forthwith, similar to the one dated 20.09.2019, duly incorporating a clause to the effect that the appointing/posting of the applicants shall be subject to the final outcome of investigation by IBPS regarding online examination held on 30.04.2019 and the medical fitness and police verification. It shall be open to the respondents to issue notice to the applicants, pointing out the acts and omission, if any, on their part and to take action in accordance with law. The respondents shall decide the steps as regards the so-called appointment to 17 candidates, through order dated 03.01.2020. However,



such candidates shall not be given any precedence over the applicants.

31. All the M.As. shall stand disposed of.

There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

January 30, 2020
/sunil/