Central Administrative Tribunal
Principal Bench

O.As 480/97, 543/97, 553/97, 515/97,
425/97, 538/97, 541/97, 41/97,398/97,
746/97.

(7)

New Delhi this the 18th day of September, 1997

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Shri S.P. Biswas, Member(A).

O.A.480/97

Shri Mukaesh Kumar,
S/o Shri Jagbir Singh,
R/o D-399, Shastri Nagar,
Ghaziabad-201001(U.P.) ...Applicant.

By Advocate Shri O.P. Khokha with Shri S.C. Luthura.

Versus

1. Union of India through
the Secretary,
Ministry of Personnel,
Pension and Public Grievances,
North Block,
New Delhi.

2. The Staff Selection Commission,
through its Chairman,
Block No. 12, CGO Complex,
Lodi Road, N.Delhi.

3. The Regional Director (WR),
Staff Selection Commission,
Army & Navy Bldg., 2nd Floor,
148, Mahatma Gandhi Road,
Mumbai. ...Respondents.

By Advocate Shri V.S.R. Krishna.

O.A. 543/97

Shri Arvind Chaudhary,
S/o Shri S.K. Singh,
C/o Dr. R.P. Chaudhary,
A-2, West Jyoti Nagar,
Shahdra, Delhi. ... Applicant.

By Advocate Shri T.D. Yadav proxy for Shri S.S. Tiwari.

Versus

Union of India - through

1. Secretary,
   Staff Selection Commission,
   Lodi Road,
   Block No. 12, CGO Complex,
   New Delhi.

2. Regional Director (ER) Staff,
   Selection Commission,
   Department of Personnel & Training,
   5, Esplanade Row West,
   Calcutta. ... Respondents.

By Advocate Shri V.S.R. Krishna.

O.A. 553/97

Manoj Kumar Gaur,
Vill - Doongra Jat,
PO - Chini Mill,
Distt. Bulandshahr (UP). ... Applicant.

By Advocate Shri D.S. Garg.

Versus

Union of India through

1. The Under Secretary,
   Northern Regional Office,
   Staff Selection Commission,
   Block No. 12, CGO Complex,
   Lodhi Road, N.Delhi.

2. The Chairman,
   Staff Selection Commission,
   Block No. 12, CGO Complex,
   Lodhi Road, New Delhi.

3. The Secretary to GOI,
   Department of Personnel & Training,
   Ministry of Personnel, Public
   Grievances, North Block,
   New Delhi.
   ...Respondents.

By Advocate Shri V.S.R. Krishna.

O.A.515/97

Shri Suresh Kumar Yadav,
S/o shri Bhoop Singh,
R/o I-79, Govindpuram,
Ghaziabad. ...Applicant.

By Advocate Shri O.P. Khokha with Shri S.C. Luthra.

Versus

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1. Union of India through
the Secretary,
Ministry of Personnel,
Pension and Public Grievances
North Block,
New Delhi.

2. The Staff Selection Commissio
through its Chairman,
Block No. 12, CGO Complex,
Lodi Road, N.Delhi.

3. The Regional Director (WR),
Staff Selection Commission,
Army & Navy Bldg., 2nd Floor,
148, Mahatma Gandhi Road,
Mumbai. ... Respondents.

By Advocate Shri V.S.R. Krishna.

O.A. 425/97

Shri Chandra Shekhar,
S/o Shri Richpal Singh,
R/o Vill & PO - Razapur,
Ghaziabad. ... Applicant.

By Advocate Shri O.P. Khokha with Shri S.C. Luthra.

Versus

1. Union of India through
the Secretary,
Ministry of Personnel,
Pension and Public Grievances
North Block,
New Delhi.

2. The Staff Selection Commission
through its Chairman,
Block No. 12, CGO Complex,
Lodi Road, N.Delhi.

3. The Regional Director (WR),
Staff Selection Commission,
Army & Navy Bldg., 2nd Floor,
148, Mahatma Gandhi Road,
Mumbai.

...Respondents.

By Advocate Shri V.S.R. Krishna.

O.A. 538/97

Shri Sanjay Kumar,
S/o Shri Tejpal Singh,
R/o G-96, Pandav Nagar,
Meerut (UP) ... Applicant.

By Advocate Shri O.P. Khokha with Shri S.C. Luthura.

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Versus

1. Union of India through

the Secretary,
Ministry of Personne
Pension and Public G
North Block,
New Delhi.

2. The Staff Selection Commission
through its Chairman
Block No. 12, CGO Co
Lodi Road, N.Delhi.

3. The Regional Director (C.R.),
Staff Selection Commission,
8, A-B, Beli Road,
Allahabad. ...Respondents.

By Advocate Shri V.S.R. Krishna.

O.A.541/97

Shri Vinod Singh,
S/o Shri Bhanwar Singh,
C-1/27, Nehru Vihar,
Dayalpur,
Delhi. ...Applicant.

By Advocate Shri T.D. Yadav proxy for Shri S.S. Tiwari.

Versus

1. Union of India through,
Secretary,
Staff Selection Commission,
Lodhi Road, Block No. 12,
CGO Complex,
New Delhi.

2. Regional Director (WR) Staff,
Selection Commission,
Army and Navy Building, 2nd Floor,
148, Mahatma Gandhi Road,
Mumbai. ...Respondents.

By Advocate Shri V.S.R. Krishna.

O.A. 41/97

Shri Subhash Singh,
C/o Shri Ravindra Singh,
H.No. C-1/27, Nehru Park,
Dayalpur,
New Delhi. ...Applicant.

By Advocate Shri T.D. Yadav proxy for Shri S.S. Tiwari.

Versus

1. Union of India through
Secretary,
Staff Selection Commission,
Lodi Road, Block No. 12,
C.G.O. Complex,
New Delhi

2. Regional Director (WR) Staff,
Selection Commission,
Army & Navy Bldg., IInd Floor,
M.G. Road, Kala Ghoda,
Mumbai. ...Respondents.

By Advocate Shri V.S.R. Krishna.

O.A. 398/97

Shri Arvind Kumar Sharma,
S/o Shri Gajendra Pal Sharma,
R/o F-20, Patel Nagar-I,
Ghaziabad. (UP) ... Applicant.

By Advocate Shri O.P. Khokha with Shri S.C. Luthra.

Versus

1. Union of India, through
the Secretary,
Department of Personnel & Training,
Ministry of Personnel,
Public Grievances and Pensions,
North Block,
New Delhi.

2. The Staff Selection Commission,
through its Chairman,
Block No. 12, C.G.O Complex,
Lodhi Road, N.Delhi.

3. The Regional Director (NR),
Staff Selection Commission,
Block No. 12, CGO Complex,
Lodhi Road, New Delhi. ... Respondents.

By Advocate Shri V.S.R. Krishna.

O.A. 746/97

Shri Ashutosh Kumar,
S/o Shri Om Dutt,
R/o No. I/827, Vill. Khera,
G.T. Road, Shahdara,
Delhi. ...Applicant.

By Advocate Shri O.P. Khokha with Shri S.C. Luthra.

Versus

1. Union of India, through
the Secretary,
Department of Personnel & Training,
Ministry of Personnel,
Public Grievances and Pensions,
North Block,
New Delhi.

2. The Staff Selection Commission,
through its Chairman,
Block No. 12, C.G.O Complex,
Lodhi Road, N.Delhi.

3. The Regional Director (NR),
Staff Selection Commission,
Block No. 12, CGO Complex,
Lodhi Road, New Delhi. ... Respondents.

By Advocate Shri V.S.R. Krishna.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

All the aforesaid O.As were taken up together as the parties agreed that the relevant facts and issues raised in these cases are identical. Shri Luthura, learned counsel for the applicant in O.A. 480/97 led the arguments which were adopted generally by the other learned counsel adding wherever necessary, the additional points which have also been considered.

2. These cases arise out of the advertisement issued by the Staff Selection Commission (SSC) - Respondent 2 dated 25.11.1995 in respect of recruitment to the post of Inspectors of Central Excise, Income Tax, etc, 1996. The applicants were candidates for this recruitment and they are aggrieved by the order passed by the respondents cancelling their candidature on the ground that they have submitted more than one application for the said examination which is contrary to the instructions given by

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them. They submit that they are otherwise qualified for the post and ought to have been considered eligible in spite of having their applications rejected on the aforesaid grounds. In O.A. 480/97 it is seen that the applicant has himself submitted that he had submitted three applications for three different regions and had also given three examinations fee. He had appeared for the examination in the Western Region at Bombay where he had been given the roll number. His candidature had been cancelled by order dated 23.11.1996 on the basis of Note-III of Para 20 of the instructions. Shri Luthura, learned counsel, states that he has challenged this note as it is arbitrary and violative of Articles 14 and 16 of the Constitution. He submits that Note-III of para 20 of the instructions has lost its relevance after the judgement of the Supreme Court in **Radhey Shyam Singh & Ors. Vs. Union of India & Ors. (1996(9) Scale 32).** He submits that as the respondents have now adopted an All India basis for the selection and not zonewise as previously held by them, the applicants can, therefore, appear only in one selection centre and it did not, therefore, matter whether they had submitted more than one application even if the respondents had instructed them not to do so. Shri Luthra, learned counsel, also relies on the judgement in **K.M. Prajapati Vs. Union of India and others (ATC 1994(27)507 (CAT-Jodhpur Bench))**. He submits that even if the respondents reject the application, they cannot reject the applicants' candidature for the examination. He also submits that it was for the respondents to have scrutinised all the application forms and if they have done it after the examination was held, it was bad in law. He relies on another judgement of the Supreme Court in **Sri Krishan Vs.**

Kurukshetra University (SCR (2) 1976 722). The learned counsel submits that once the respondents have allowed the applicants to sit in the examination even if there was any infirmity, they cannot reject their candidature. He has referred to the practice followed by the UPSC to show that the clause has no meaning as it is not followed by the other major recruiting Commission. He has also submitted that later in the same examination of 1997, Respondent 2 have discontinued this clause.

3. In O.A. 398/97 (Arvind Kumar Sharma Vs. Union of India & Ors.) and O.A. 746/97 (Ashutosh Kumar Vs. Union of India & Ors.), the learned counsel for the applicants has further submitted that they had intimated Respondent 2 to cancel the other applications and, therefore, there was only one application which was to be considered even though they might have submitted two earlier. In O.A. 553/97 (Manoj Kumar Gaur Vs. Union of India & Ors.), Shri D.S. Garg, learned counsel for the applicant while adopting the other arguments of Shri Luthra, learned counsel for the applicants in the other cases, has submitted in addition that the applicant, who was about 25 years was immature when he applied first in Allahabad and then in Delhi and he may, therefore, be excused for changing his mind. He has also argued that as no show cause notice was issued, the cancellation was illegal and it was for the respondents to have scrutinised the applications before the candidates took the examination. For these reasons, the learned counsel for the applicants have submitted that there was no justification whatsoever for the respondents to cancel the candidature of the applicants and the clause contained in

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Note-III of Para 20 of the advertisement was arbitrary. They have, therefore, sought a direction to the respondents to call the applicants for interview and proceed further in the selection process pursuant to the said written examination held on 28.4.1997 with consequential benefits.

4. We have seen the reply filed by the respondents and heard Shri V.S.R. Krishna, learned counsel. He has submitted that the judgement in **Radhey Shyam Singh's case (supra)** will not apply to the present case as their Lordships have made it clear in the judgement itself that it will have prospective application only, and whatever selections and appointments have so far been made in accordance with the impugned process of selection shall not be disturbed on the basis of this judgement. The Supreme Court has ordered that in future Selection shall not be made on zonal basis. He, therefore, submits that since the date of the judgement is 9.12.1996 and the advertisement for the examination in question was 25.11.1995, there was no illegality in the cancellation of the applications submitted by the candidates which were contrary to the notice for the examination. The examination, in question, was held on 28.4.1996 i.e. before the judgement in **Radhey Shyam Singh's case (supra).** He has submitted that if the applications submitted by the applicants were not in proper form, their candidature also goes and they cannot then claim that they have been declared passed or empanelled in the list of successful candidates. He has also submitted that the reliefs prayed for by the applicants cannot be granted as they have already taken the examination with the aforesaid conditions and they cannot, therefore, approbate and reprobate. He has

distinushed the judgement in K.M. Prajapati's case (Supra) stating that the candidate in that case had not signed the form but it was thought that he had only written his name which is not the situation in the present case. He has also submitted that Note-III of para 20 of the notice of the examination is not arbitrary in which it has been clearly stated that the candidates should submit only one application, and multiple applications will be rejected summarily. He has also submitted that similar applications (O.A 881/97 & O.A. 610/97) filed in this Tribunal have also been rejected.

5. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties. We find there is no merit in these applications for the reasons given below.

6. In Radhey Shyam Singh's case (Supra), the Supreme Court in the judgement dated 9.12.1996 has clearly stated that their judgement will have prospective application and whatever selections and appointments have been made in accordance with the impugned process of selection on zonal basis shall not be disturbed. Admittedly, the examinations in question were held on 28.4.1996 and, therefore, this judgement would not be applicable. In the advertisement for the examination appearing in the Employment News dated 25.11.1995, Para 20 gave instructions to the applicants as to how they should submit their applications. Note-III further stated clearly that a candidate should submit one application only and multiple applications will be rejected summarily. In the rejection letter, Respondent 2 has stated that it was found

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that the applicants have submitted more than one application for the same examination. It is also important to note that while submitting the applications to the Commission, the applicants had given a declaration in writing that no other application for the same selection has been sent by him. In the notice to the applicants, it has also been mentioned that in the event of false information being detected before or after the examination, their application is liable to be rejected summarily and their candidature cancelled. In the declaration, they had to submit that they have not submitted any other application and if they contravene this rule, their application will be rejected by the Commission summarily. The applicants were, therefore, duty bound to make full and correct disclosure about the fact that they have applied in other zones also which they have suppressed. In the circumstances of the case,we find no substance at all in the challenge made by the applicants that their candidature should not be cancelled even though their application may be found irregular. The contention of the learned counsel that since the applicants were young and, therefore, they were immature can hardly be accepted when it is seen that right at the threshold of their career they have given false declarations. In all these cases it is not disputed that the applicants have submitted more than one application form and gave a false declaration. In some of the cases, it was contended by the learned counsel that they had intimated to the Commission about cancelling one of the applications but that does not absolve them of giving a false declaration. The decision taken by the respondents that the applicants were guilty of submitting multiple applications cannot,therefore, be faulted. It is

(18) also to be viewed with serious concern that in some of the cases the applicants have now tried to plead that they may be excused because they are young or that such condition is ulltra vires and so on. We find no illegality in the instructions/notice given in the impugned judgement and it is settled law that after having appeared in the examination, they cannot take such pleas. At several places in the advertisement, namely, Para 14 and Note-III of Para 20 of the Instructions to candidates contained in the application form itself, it has been clearly indicated that the candidate should submit only one application form together with other relevant instructions. The contention of the learned counsel for the applicants that the respondents ought to have checked the application forms before they sat in the examination is also without any basis as sufficient notice had also been given to the applicants about this. The suppression of material facts by the applicants and making false declarations cannot be excused merely because they are young. There is also no question of invoking the principle of promissory estoppel against the respondents in these cases because the applicants cannot be treated as equals with other candidates.

7. From the above, it is seen that the applicants are guilty of suppression of material facts, they have made false declarations in the applications and they cannot, therefore, claim any reliefs on the ground that they are young and immature. In the facts of the case, the other cases cited by them do not also assist them. See also the decision of the Tribunal in O.A. 448/97 decided on 7.7.97 dismissing another similar application.

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8. For the reasons given above, we find no merit at all in these applications. The same are accordingly dismissed. No order as to costs.

(S.P. Biswas)
Member(A)

(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'

Attested
18/9/92