



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.2827/2016
 M.A. No.3459/2016
 M.A. No.3176/2016
 With
 O.A. No.2753/2016
 M.A. No.1679/2020
 With
 O.A. No.2818/2016
 M.A. No.3458/2016
 M.A. No.1677/2020
 With
 O.A. No.2819/2016
 M.A. No.1680/2020

Thursday, this the 8th day of October, 2020

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

O.A. No.2827/2016

Sh. Harkesh s/o Sh. Rajender Singh
 Aged about 27 years
 r/o Village Malikpur PO Achhej
 Tehsil – Beri, Distt. Jhajjar, Haryana

...Applicant

(By Advocates: Mr. AakashSirohi and Mr. Aditya Singh)

VERSUS

1. Staff Selection Commission
 Through its Chairman
 Headquarters, Block No.12
 CGO Complex, Lodhi Road,
 New Delhi – 3
2. Director General NCB West Block 1,
 Wing No.5, R K Puram, New Delhi – 110 066
3. Union of India
 Through its Secretary Home



West Block No.1, Wing No.5
R K Puram, New Delhi – 110 066

(By Advocate: Mr. R K Sharma)

...Respondents

O.A. No.2753/2016

Rahul Tomar s/o Sh. VijenderTomar,
Aged about 28 years
r/oGali No.4, House No.38/4
Azad Nagar, Baraut, Baghpat
Uttar Pradesh

...Applicant

(By Advocates: Mr. AakashSirohi and Mr. Aditya Singh)

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3. Union of India
Through its Secretary Home
West Block No.1, Wing No.5
R K Puram, New Delhi – 110 066

...Respondents

(By Advocate: Mr. R K Sharma)

O.A. No.2818/2016

ShLhunkholal s/o late SeikholenGuite,
Aged about 37 years
Ro Pilellhang Village, Peren District
Nagaland

...Applicant

(By Advocates: Mr. AakashSirohi and Mr. Aditya Singh)

VERSUS



1. Staff Selection Commission
Through its Chairman
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New Delhi – 3
2. Director General NCB West Block 1,
Wing No.5, R K Puram, New Delhi – 110 066
3. Union of India
Through its Secretary Home
West Block No.1, Wing No.5
R K Puram, New Delhi – 110 066

...Respondents

(By Advocate: Mr. R K Sharma)

O.A. No.2819/2016

Sh. ArpanSangwan s/o Sh. Samarth Sangwan
Aged about 30 years
R/o H.No.60, HTM Colony
Ratgarh Road, Hisar, Haryana

...Applicant

(By Advocates: Mr. AakashSirohi and Mr. Aditya Singh)

VERSUS

1. Staff Selection Commission
Through its Chairman
Headquarters, Block No.12
CGO Complex, Lodhi Road,
New Delhi – 3
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...Respondents

(By Advocate: Mr. R K Sharma)

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:

Since the facts and law involved in all these four O.As. are identical, the same are disposed of by way of this common order.

2. The applicants were selected and appointed as Assistant Sub Inspectors in the Narcotics Control Bureau (NCB) in the year 2011. The selection was undertaken by the Staff Selection Commission (SSC), the 1st respondent herein. Several years after the applicants were selected and appointed, the SSC issued show cause notices in July, 2016 to the applicants and several other candidates, alleging acts of unfair practices in the competitive examination. It is stated that there are broad similarities in the performance of various candidates and an inference was drawn that the candidates have copied in the papers. These O.As. are filed challenging the show cause notices.

3. The applicants contend that no doubt whatever was expressed at the time of evaluation of their answer scripts at different stages, much less at the stage of selection and there was absolutely no basis for the respondents for issuing show cause notices, that too, on the basis of imaginary grounds. The applicants have also relied upon the order passed by the Hon'ble Punjab & Haryana High Court and certain orders passed by this Tribunal in various cases.



4. The respondents filed a detailed counter affidavits in all these O.As. According to them, the performance of selected candidates was analyzed and on finding that the similarities exist in the pattern of answers, particularly for objective type answers, show cause notices were issued, requiring the applicants to furnish their explanation. It is contended that the O.As. are not maintainable against the show cause notices.

5. We heard Mr. Aakash Sirohi, learned counsel for applicants and Mr. R K Sharma, learned counsel for respondents, at length, through video conferencing.

6. The process of selection to the post of Assistant Sub Inspector was undertaken by the 1st respondent. It was only after the applicants were declared successful at every stage, that they were selected and appointed. No suspicion whatever was expressed at any stage. Many years after the applicants were appointed, show cause notices are issued to the applicants.

7. A basic question arises as to whether it is competent for the SSC to take any steps once the candidates have already been appointed. In other words, the SSC becomes *functus officio* once the selection is made. It must not be forgotten that the SSC is an agent or an authority to assist the Departments, and after the appointment of candidates, its role comes to an end. Therefore, the show cause notices issued to the applicants become untenable



for lack of jurisdiction or competence. Secondly, the reasons mentioned in the show cause notices are not of specific and defined act of malpractices so done by the applicants. It is only by drawing a comparison, that an opinion is formed about the commission of malpractices.

8. The examination is conducted in objective type questions. It is natural that the pattern of answering may not be different, as between many candidates. The very fact that many candidates achieved the same marks, is an indicative of this aspect.

9. The Hon'ble High Court of Delhi in **Staff Selection Commission & another v. Sudesh** (W.P. (C) No.9055/2014) decided on 19.12.2014 examined the similar issue and held that the proceedings cannot be initiated just on the basis of suspicion drawn out of results. The said judgment was followed by this Tribunal in various other cases. Even on merits also, we are satisfied that the SSC does not have the competence or jurisdiction to initiate the proceedings, once the candidates are appointed.

10. We, therefore, allow these O.As. and quash the show cause notices issued to the applicant. We also direct that the SSC shall not take any steps adverse to the applicants.

11. All the pending M.As. in respective O.As. shall stand disposed of.



There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

October 8, 2020
/dkm/sunil/vb/sd