



**Central Administrative Tribunal
Principal Bench, New Delhi**

**O.A. No.1663 of 2020
M.A. No.2147 of 2020 & MA 2148 of 2020**

This the 16th day of December, 2020

(Through Video Conferencing)

**Hon'ble Mr. A.K. Bishnoi, Member (A)
Hon'ble Mr. R.N. Singh, Member (J)**

1. Nishant Singh, Appointment (Group 'C')
Aged About 25 years,
S/o Sh. S.P. Singh,
R/o WB-122, Street No.6, Ganesh Nagar-II,
Shakarpur, Delhi-110092.
2. Rishabh Garg, Appointment (Group 'C')
Aged About 27 years,
S/o Sh. Shivji Ram,
R/o House No.6, Block A, Arora Colony, Sunam,
Punjab-148028.
3. Mudit Mohan Srivastava, Appointment (Group 'C')
Aged About 25 years,
S/o Sh. Akhilesh Kumar Srivastava,
R/o D.J. Colony, Tarkarpur, Mizarpur,
Uttar Pradesh – 231001.
4. Nishant Kumar, Appointment (Group 'C')
Aged About 27 years,
S/o Sh. Sudhir Tiwari,
R/o Thahikinara, Kulharia, Parbatta, Khagaria,
Bihar-851216.
5. Shubham Achal, Appointment (Group 'C')
Aged About 24 years,
S/o Sh. Shatrughan Sinha,
R/o Village Babhana, Dist. Jehanabad,
Behar-804408.



6. Sandeep, Appointment (Group 'C')
Aged About 26 years,
S/o Sh. Rohtash,
R/o H.No.-269, Aswar Mohalla, Gurgaon,
Haryana-122002
7. Randhi Suresh, Appointment (Group 'C')
Aged About 29 years,
S/o Sh. Randhi Gangu Naidu,
R/o Nallabilli Kasipathraj, Vepada Mandal,
Vizianagaram-535281.
8. Deepshikha Kumari, Appointment (Group 'C')
Aged About 25 years,
D/o Sh. OM Prakash,
R/o Azadnagar Sudna, Medininagar, Palamu,
Jharkhand-822101.
9. Trishala Tripathi, Appointment (Group 'C')
Aged About 23 years,
D/o Sh. Santosh Kumar Tripathi,
R/o 1/180 Jankipuram Extension, Lucknow.
10. Ravi Shankar Jha, Appointment (Group 'C')
Aged About 23 years,
S/o Sh. Manoj Kumar Jha,
R/o Vill and PO-OJHAUL, VIA-DMC, Darbhanga,
Bihar-846003.
11. Atul Siwach, Appointment (Group 'C')
Aged About 25 years,
S/o Sh. Bijendra
R/o H.No.302, Sector-2, Rohtak
12. Ashish Kumar, Appointment (Group 'C')
Aged About 24 years,
S/o Sh. Satyendra Sharma,
R/o Village Barkagaon, PS- Pakridayal, East
Camparan, Bihar 845428.

...Applicants

(By Advocate: Shri M.K. Bhardwah)

VERSUS

1. Union of India,
through Secretary,
DOP&T, North Block, New Delhi.
2. Staff Selection Commission,
through its Chairman,
CGO Complex, Lodhi Road,
New Delhi.
3. The Regional Director,
Staff Selection Commission,
CGO Complex, Lodhi Road,
New Delhi.

...Respondents

(By Advocate: Shri Gyanendra Singh)

ORDER (Oral)**Hon'ble Mr. R.N. Singh, Member (J):**

The applicants, 12 in number, have filed the present Original Application under Section 19 of the Administrative Tribunals Act, 1985, to challenge the cancellation of their candidature for the Common Graduate Level Examination 2018 for violating the instructions given in the Booklet provided to them (Annexure R-4) wherein it has been advised to every candidates as under:-

“Candidates are strictly advised not to write any personal identity (real or imaginary), e.g. Name, Roll No., Mobile No, Address, etc. (other than the name and address given in the question) inside the Answer-Book. Otherwise their Answer-Book will not be evaluated and they shall be awarded zero marks.”



2. The facts leading to the present OA are that the respondents have issued an advertisement on 5.5.2018 for holding the Common Graduate Level Examination 2018. The applicants have applied in response to the said advertisement and participated in Tier-I, Tier-II and on being short-listed therein in the said examinations, they were allowed to participate in Tier-III examination also. However, applicants' answersheets were not evaluated by the respondents for Tier-III examination and their candidatures were rejected on the ground of violation of aforesaid advise. In the aforesaid background, the applicants have approached this Tribunal by way of present OA.

3. It is admitted case of the applicants no.2 to 12 that they have mentioned their respective names in the Answer-Book despite the clear cut instruction/advise given to them as noted hereinabove. The applicant no.1 has though not given his name in the Answer-Book, however, admittedly, he has mentioned first eight digits of his mobile no., i.e., 99997828 and has suffixed the first letter of his name 'N' with such number.



4. In pursuance to notice from this Tribunal, the respondents have filed their detailed counter reply and they have also brought on record a copy of the relevant Answer-Books of the applicants alongwith such counter reply.

5. Learned counsel for the applicants argues that applicants have mentioned their names and/or their telephone numbers not to drive any illegal benefit out of the same but for out of misconception in view of instructions given under Question No.2 (Page No.124 of the Counter Reply) wherein it has been mentioned as under:-

“You are Sunita/Sunil, resident of Gandhi Road, Dwarka, New Delhi-110083. Write a letter to the Manager, DG Restaurant complaining about their poor service and the quality of food. (Word Limit L 150 words)”

He further submits that in the matter of Higher Secondary Level Examination 2018, the respondents have taken a conscious policy decision dated 5.8.2020 wherein the respondents have allowed more than 4000 candidates to participate in the examination as an one time measure in view of the recommendations of a Committee constituted by them. Candidatures of such more than 4000



candidates in the said examination were cancelled on the allegations of their involvement involved in malpractices. Shri Bhardwej submits that in view of facts and circumstances, the respondents are required to consider the candidatures of the applicants and evaluate their performance in Tier-III examination and proceed in the selection matter based on performance of the applicants in Tier-III Examination.

6. *Per contra*, learned counsel for the respondents Shri Gyanendra Singh submits that the issue raised in the present OA is no more *res integra* in view of the fact that similarly placed person had approached this Tribunal by way of OA No.1070/2020 titled ***Ruby vs. Union of India and others*** and this Tribunal has dismissed the said OA vide Order/Judgment dated 1.10.2020. He invites our attention to Para 9 of the aforesaid Order/Judgment dated 1.10.2020 which reads as under:-

“4. The applicant was successful at Tier-I level. However, at Tier-II level, she did not sign on the stipulated place in page 1 of the answer script. The signature of the candidate becomes essential for the purpose of identification, particularly in these days of rampant impersonation. The applicant does not dispute that she did not sign at the relevant place. The respondents have promptly furnished her the relevant page of the answer script in reply to an application under RTI Act. It is just ununderstandable as to how such a reply can be challenged in this OA and how the applicant feels aggrieved by that.”



He further invites our attention to Order/Judgment of the Coordinate Bench of this Tribunal dated 18.9.2020 passed in OA No.1275/2020 titled **Rabul DeoOran vs. SSC and another** wherein this Tribunal was dealing with the applicant, who participated in Common Graduate Level Examination of 2017, who has cleared Tier-I and Tier-II Examination, however, his candidature in Tier-III was cancelled on the ground that he had mentioned his name in the answer script. After considering the identical submissions as made by the learned counsel for the applicants herein the present OA, this Tribunal has held as under:-

“5. The controversy is about performance of the applicant in Tier-III examination of CGLE, 2017. As observed earlier, one of the questions involved addressing of a letter. In the instructions to the candidates, the SSC has clearly mentioned that they shall not write their name or any other word having the effect of disclosing their identity in the answer script. In the concerned question itself, it was mentioned that the candidate must treat himself as one Mr.Rajesh/Rajan/Rajani, and shall not write their names. None of these instructions and precautions have any effect on the applicant. He mentioned his name in the answer script. In other words, he did what exactly the SSC has prohibited. The consequences would naturally follow. The performance of the applicant in Tier III was cancelled and his candidature stood cancelled.

6. It is true that the SSC issued a notice on 05.08.2020 condoning the unfair practices as a one-time measure. That, however, is in respect of the Combined Higher Secondary Level Examination,



(10+2) (Tier II), held in the year 2019. The circumstances under which it was issued are not immediately before us. The measure, which is evolved for the benefit of lower category examinations under the special circumstances, cannot be treated as the basis to condone the irregularities as committed by the applicant. Further, performance of thousands of such candidates were cancelled and condonation of the same in respect of the applicant, that too, after completion of selection process, would lead to several complications.”

7. Shri Gyanendra Singh, learned counsel for the respondents further invites our attention to Order/Judgment dated 10.9.2020 passed in OA 1028/2018 titled **Pradeep Kumar and others vs Union of India and others** of a coordinate Bench of this Tribunal, consisting one of us (Hon'ble Shri A.K. Bishnoi, Member (A)) wherein this Tribunal was dealing with cancellation of candidatures of the applicants, who were candidates for Combined Graduate Level Examination of 2016. The applicants therein in **Pradeep Kumar's** case (supra) have qualified Tier-I and Tier-II Examinations and they participated in Tier-III Examination. However, the results of the applicants therein were not declared on the ground that they resorted to unfair means as well. In that case also Shri Bhardwaj learned counsel for the applicants herein was appearing as counsel for the applicants and he had argued that in view of the aforesaid policy decision



dated 5.8.2020, the applicants therein were entitled to be considered for further selection process. However, this Tribunal dismissed the said OA. Paras 10 and 11 of the Order/Judgment dated 10.9.2020 in **Pradeep Kumar's** case (supra) read as under:-

“10. It is true that in respect of the Combined Higher Secondary Level (10+2) for the year 2018, the Staff Selection Commission has decided to give one time exemption to all the candidates of the CHSL examination Tire – II, 2018. The circumstances under which certain exemption was granted are not before us. The examination in which the applicants took part, was held in 2016 and it is in CGLE. We find it difficult to apply the decision contained in the letter dated 05.08.2020 to the applicants herein.

11. We do not find any merit in this OA and the same is dismissed accordingly. We, however, make it clear that in case any policy decision is taken in respect of CGLE – 2016, the applicants can also get the benefit. In such an event, it shall also be open to the applicants to seek remedy in accordance with the law with the respondents also.”

8. In rejoinder, Shri Bhardwaj, learned counsel for the applicants argues that in the aforesaid cases, this Tribunal was dealing with the candidature of the applicants for Common Graduate Level Examinations of 2016 and 2017 whereas the facts in the present case are different from those cases to the extent that the applicants in the present OA are candidates for the Common Graduate Level Examination of 2018. However, he does not dispute that



the issue raised in the cases referred to hereinabove by the learned counsel for the respondents is identical to that in the present OA.

9. It is settled law that a **coordinate Bench** cannot take a contrary view and in event there was any doubt, a **coordinate Bench** only can refer the matter for consideration by a Larger Bench, as has been ruled by the Hon'ble Apex Court time and again. We do not have any doubt to held that the issue raised in the present OA is identical to that in the cases referred to and relied upon by the learned counsel for the respondents and referred to hereinabove.

10. Accordingly, the present OA is dismissed. However, in the facts and circumstances, the cost is made easy.

11. Pending MAs stand disposed of accordingly.

(R.N. Singh)
Member (J)

(A.K. Bishnoi)
Member (A)

/ravi/akshaya/