

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/00298/2020

Date of CAV: 23.09.2020

Date of Pronouncement :06.10.2020



**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**

Narasimha Ampalla S/o Sri Somaiah,
Aged about 32 years, Occ . Postal Assistant,
Department of Posts, Suryapet HO,
Suryapet Division, Hyderabad Region,
Telangana Circle, R/o Suryapet.

(By Advocate; : Mr.Siva)

...Applicant

Vs.

1. Union of India Rep by the
Secretary to Government,
Ministry of Communication,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi-100 001.
2. The Director General,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi-100 001.
3. Chief Post Master General,
Telangana Circle, General Post Office,
Abids, Hyderabad – 500 001.

....Respondents

(By Advocate : Mr. B. Venkanna, learned Proxy Counsel representing
Mr. A. Radha Krishna, Senior PC for CG)

ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

2. The OA is filed for non evaluation of the answer script of the applicant in the Group 'B' officers examination held by the respondents.



3. Brief facts, which are to be adumbrated, are that the applicant while working as Postal Assistant in the respondents' organization has appeared in the Limited Departmental Competitive Examination (for short "**LDCE**") comprising of four papers, held by the respondents pursuant to the notification dated 9.9.2019 for promotion to Group B cadre. Applicant was declared as not qualified on 24.6.2020 for the reason that he did not bubble the Hall Ticket number in paper IV of the examination on the Optical Mark Recognition sheet (for short "**OMR sheet**"). Paper IV along with multiple choice questions has also some descriptive type questions. Applicant represented on 25.6.2020 for evaluating the question paper IV manually and there being no response, OA has been filed.

4. The contentions of the applicant are that due to examination anxiety, though the hall ticket number was written correctly it was not properly bubbled in the corresponding portion of the OMR sheet in respect of paper IV. Paper IV has both multiple choice and descriptive type questions. The descriptive part answers written on a separate sheet has the hall ticket number recorded at the appropriate place. Therefore, even if the hall ticket number were not to be mentioned on OMR sheet, it could be deciphered that the same belongs to the candidate based on the number written on the descriptive portion of the answer sheet. Moreover, descriptive portion has to be manually corrected and hence claiming that the paper could not be



machine evaluated and therefore the rejection is incorrect. Non evaluation of the papers for an error in OMR sheet exhibits lack of application of mind by the respondents. Applicant cited certain judicial pronouncements to further his contentions. Applicant claims that there has been no instruction in the notification, hall ticket, question paper, OMR sheet to the effect that erroneous filling up of the details on the OMR sheet would result in denial of evaluation of the paper. Besides, Postal Manual Volume III Para 17 prescribes equal responsibility on the supervisor to check the hall tickets written on the OMR sheets. The exam itself being limited to a few candidates the papers could be evaluated to uphold merit. Even in respect of series B of the question booklets there appears to be some errors in the question booklets which has created confusion leading to the mistakes in question. Their being some error in regard to the key of series B question booklets, though the results have been announced but yet they are kept on hold. Applicant claims that even by ignoring the 50 marks allocated for the descriptive portion of paper IV, he has scored 918 marks which is close to the marks scored by the topper in Telangana Postal Circle, as per the key released by the respondents and therefore has bright chances to be selected on merit. Besides, the eligibility criterion in respect of length of service to appear in the exam has been changed from 5 years to 8 years and therefore he has to wait for another 3 years to appear in the exam, if his answer sheets remain unevaluated.

5. *Per contra*, respondents state that Paper IV of the examination held pursuant to the notification dated 9.9.2019 contained 125 multiple choice questions and a descriptive portion for 50 marks. Noting the hall ticket

number at the appropriate place is the basic thing to be done by a candidate. Results were announced on 24.6.2020 and the applicant's name figured in the rejected list for the error in not bubbling the hall ticket number in the OMR sheet. The pattern and syllabus applicable to the examination had also been indicated in the notification cited. The applicant has not followed the instructions as laid down in Part II of Appendix 37 of Postal Manual Vol.- IV. Instruction in the first page of the question booklet at point number 4 was uncared for. Further, on the obverse of the OMR sheet instructions stated therein have been ignored. Guidelines as specified on the reverse of the hall ticket were also not abided by. Invigilators have announced in the exam halls the important instructions to be followed but the applicant failed to pay any heed to them. OMR sheet is evaluated by electronic means and the applicant is fully aware of the same. In the absence of the hall ticket number, the machine does not evaluate the answer sheet. It was pure negligence on the part of the applicant in not mentioning the hall ticket number in Papers IV. All cases where errors were found in the OMR sheet were rejected including that of the applicant. Applicant claiming that he would get 918 marks is only an assumption. Applicant represented on 25.6.2020 and the same was being disposed, OA has been filed and hence, liable to be dismissed. Evaluation of OMR sheets has to be done as per conditions stated in the notifications but not as per the needs of the applicant and if conceded to it would go against the Principles of Natural Justice. Electronic evaluation has brought in transparency. It was in applicant's interest that he should have taken care to write the correct details rather than shifting the blame on to the respondents. If applicant was not able to take such minimal care, then he is unfit to occupy a responsible



position like that of an Inspector. The mistake is not a minor mistake but major. Respondents cited judgments to strengthen their contentions. Combined Graduate Level Exam is conducted online for direct recruits and whereas in the present case it is based on OMR sheets for those who are in service. The results declared have been kept on hold for certain reasons.



6. Heard both the counsel, perused the pleadings on record and gone through the written submissions filed by both sides.
7. I. The core issue in respect of the instant case is that the applicant has correctly written the hall ticket number 20010169 in the space provided for in the OMR sheet but did not bubble the circles corresponding to the digits in the OMR sheet as per instructions, in paper IV of the exam. The evaluation of the answer sheet is done by a software and hence any mistake done in filling up the OMR sheet will entail rejection. Be it minor or major. Consequently paper IV of the applicant was not evaluated and thus his result was not declared under the caption "ERROR IN OMR SHEET". Respondents have not declared the results of 390 candidates (para 8 of reply statement) for committing errors in OMR sheet.

II. Identical issue fell for consideration by this Tribunal in OA 483/2020 and it was dismissed after dealing with the issues at length. The contentions of the applicant and the respondents' reply in OA 483/2020 are more or less akin to the present OA. Only difference is that, in the said OA the errors were committed in paper II to Paper IV i.e. 3 papers with reference to recording the hall ticket number and in the instant case, it was confined to Paper IV. In principle, the cause of action in both the OAs was error in recording details in the OMR sheet as per instructions. Only

quantum varied but not the quality of the error. The relevant paras of the judgment in OA 483/2020 are extracted hereunder:

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II. Even at the time of the examination, invigilators have announced the instructions which has not been denied by the applicant. Therefore, as can be seen there are elaborate instructions in regard to the necessity to indicate the hall ticket number on the OMR sheet. The hall ticket number identifies the candidate. Without the hall ticket number the answer sheets belongs to none. One cannot assume or presume identity, be it on representation, to evaluate such answer sheets. The applicant for not having written the hall ticket number, the computer software which the respondents and applicant christened it as a machine, would not identify the candidate and terms it as an error in the OMR sheet. This is what has happened to the applicants answer sheets in respect of papers II to IV. It is not that the applicant who is a Government service with adequate years of service would not be aware of the basic fact that he has to adduce the hall ticket number on the OMR sheet. Nevertheless, when instructions were scribed on the OMR sheet, admit card coupled with invigilators announcements and yet the applicant committing the error of not writing the Hall ticket number in papers II to IV is beyond one's comprehension.

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V. Applicant cited the judgment of the Hon'ble High Court of AP in WP No.28874/2015 delivered on 18.11.2015. The issue in principle was in respect of an error committed in violation of exam instructions in noting details of the test form number. The judgment of the Hon'ble High Court when challenged in Special Leave to Appeal (C) No-18592/2016, the Hon'ble Supreme Court has permitted application of the Hon'ble High Court judgment only in respect of the respondent and the question of law was kept open.

The question of law was later settled by the Hon'ble Apex Court in **State of Tamil Nadu & Ors v G. Hemalatha & Anr** in Civil Appeal No. 6669 of 2019, decided on 28.8.2019:

10. In her persuasive appeal, Ms. Mohana sought to persuade us to dismiss the appeal which would enable the Respondent to compete in the selection to the post of Civil Judge. It is a well-known adage that, hard cases make bad law. In *Umesh Chandra Shukla v. Union of India, Venkataramiah, J.*, held that:

"13.... exercise of such power of moderation is likely to create a feeling of distrust in the process of selection to public appointments which is intended to be fair and impartial. It may also result in the violation of the principle of equality and may lead to arbitrariness. The cases pointed out by the High Court are no doubt hard cases, but hard cases cannot be allowed to make bad law. In the circumstances, we lean in favour of a strict construction of the Rules and hold that the High Court had no such power under the Rules."

11. Roberts, CJ. in *Caperton v. A.T. Massey* held that:

"Extreme cases often test the bounds of established legal principles. There is a cost to yielding to the desire to correct the extreme case, rather than adhering to the legal principle. That cost has been demonstrated so often that it is captured in a legal aphorism: "Hard cases make bad law."

12. After giving a thoughtful consideration, we are afraid that we cannot approve the judgment of the High Court as any order in favour of the candidate who has violated the mandatory Instructions would be laying down bad law. The other submission made by Ms. Mohana that an order can be passed by us under Article 142 of the Constitution which shall not be treated as a precedent also does not appeal to us."

The case of the applicant is undoubtedly a hard case. The Ld Counsel for the applicant though was arguing strenuously that technical errors should be ignored and merit should be given priority. However, hard cases make bad law as observed by the Apex Court. In appointments to Group B cadre through promotions by a competitive Limited Departmental exam, the process should be fair and impartial and should not create a feeling of distrust

amongst all those who participate. Group B positions are at the cutting edge of the organization. These positions mostly have a direct interface with the public. Hence they are sensitive and important which decide the future of the organization. To hold such positions one has to have a calm and clear mind and not get confused at the drop of a hat. Hence the exam is to test not only the knowledge but the ability to follow instructions. Those who do not follow the instructions fall by the way side. Applicant failed to comply with the mandatory instructions as specified on the OMR sheets, admit card and P&T Manual referred to above and hence granting relief as sought, would not be resonating with the above judgment.

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XI. It is contextual to state that judicial intervention will be on facts, law and in public interest. The Public interest involved in conducting an exam is to ensure that it is fair, transparent, objective and as per relevant rules, which govern the conduct of the exam. The objective is to provide for a level playing field so that merit emerges with all parameters applied without any detour. The rules are universally applicable to all the candidates and any deviation from the same, to favour some for one reason or the other, would raise questions on the very objective of the exam which obviously is not in public interest.

III. Interestingly, the instant OA and the OA 483/2020 were filed more or less simultaneously but at the request of the Ld. Counsel for the respondents OA 483/2020 was heard earlier and dismissed on 16.09.2020. Taking cognizance of the dismissal, Ld. Counsel for the applicant prayed for filing of written submission in the instant case. Usually when covered cases come up for hearing, to maintain judicial discipline and consistency the judgments in covered cases are straight away followed. In the interest of Justice, applicant/respondents were permitted to file written briefs. In the written submissions submitted, the applicant has raised the following grounds:

1. The Hon'ble Jodhpur Bench of this Tribunal has dealt with a similar case in OA 290/00108 of 2020 and allowed it on 24.9.2020 wherein the same issue of error in OMR sheet fell for consideration. Being Coordinate Bench finding, the applicant claims that, either it should be followed since it is binding or if not agreed to, the matter has to be referred to a larger Bench. We have gone through the judgment cited wherein the Hon'ble Supreme Court verdict in *State of Tamil Nadu*



& Ors Vs G. Hemalatha & Anr. in C.A.No.6669 of 2019 dt.28.08.2019, relied upon by this Tribunal in OA 483/2020, was not referred to. As contended by the respondents, the judgment of the Jodhpur Bench in O No.108/2020 dt.24.09.2020 is also contrary to the judgment of the Hon'ble High Court of Judicature at Allahabad in Writ A. No. 849/2020, dt. 05.02.2020, on similar subject. Thus, the said judgment is *per incuriam* and having been clearly distinguished, it is not binding and hence, the necessity to refer to a larger Bench does not arise. Moreover, there are several other legal principles observed by the Hon'ble Supreme Court which were discussed by this Bench before coming to the conclusion of dismissal. The same do not find a place in Jodhpur Bench. The law laid by the Hon'ble Supreme Court to follow mandatory instructions in regard to conduct of examination is supreme. The fundamental aspect of any examination is that there are certain mandatory rules, which are to be followed while appearing in the exam. The mandatory rules form the hub around which, the spokes of the exam system are designed and developed to produce the wheel of what is called "the examination". Without the hub, there can be no wheel, so too, without the rules of the exam not being followed, there can be no exam conducted in the way it should be and the exam so conducted with rules violated is no exam, whatsoever. The aspects like the mandatory bubbling not being done but writing the hall ticket number, etc. come under the ambit of violation of mandatory instructions. It requires no mention that the law laid down by the Hon'ble Supreme Court in respect of adhering to mandatory

instructions pertaining to selection, of which exam is the crucial component, is binding.

2. In regard to the finding of this Tribunal in OA 483/2020 that the issue raised by the Union of India in SLP (C) No.18592/2016 was left open and that was decided by Hon'ble Supreme Court in its judgment in State of T.N. v Hemalathaa in CA No. 6669/2019, the Applicant claims that the verdict of the Hon'ble Supreme Court in State of T.N. v Hemalathaa is not applicable to his case, as made out in his words, in the written arguments, as under:



“...the judgment rendered by the Supreme Court of India in State of Tamil Nadu v G. Hemalathaa in C.A.S No 6669 of 2019 may not be appropriate in as much as the facts in the case that led to the institution of the SLP 18592 and the contention raised by the Union of India related to the bubbling of the circle and the facts in the later case related to violation of the instructions in respect of the answers etc as can be seen from the reading of the full text of the Judgment.”

The averment of the applicant lacks logic, if one were to go through the judgment in G.Hemalathaa extracted in paras supra. The observation in the cited judgment is that any order in favour of the candidate, who has violated the mandatory instructions, would be laying down bad law. The applicant in the instant case has violated the mandatory instructions in filling up the OMR sheet and therefore, the Hon'ble Apex Court judgment is squarely applicable to his case. Mandatory instructions are mandatory whether they appear in the notification or on the answer sheets/ OMR/admit card etc. Instructions were made available on the OMR sheet, answer sheet, admit card and in Part II of Appendix 37 of the Postal Manual Vol. – IV. The penal consequence of not evaluating the OMR/answer sheet for not following the instructions were clearly specified as is where



required. As for example, at point number 4 on the question booklet, the cited penal provision is adduced (Annexure R-4). It is surprising that the applicant aspiring to occupy a responsible position of Inspector of Posts is not aware of the primary rule in regard to examination laid down in the basic Manual referred to. The study of Postal Manuals is as basic as the skills taught in LKG, when a tiny tot enters the arena of education, so too the manuals are first learnt in the LKG years of serving the respondents organization and without the knowledge of the same, it would be too difficult for the Postal Assistant to perform in the respondents organization. The applicant has been working as Postal Assistant since the last 9 years and is presently holding the post of officiating Post Master of Suryapet Head Post Office which, so much so, calls for complete knowledge of all the Postal Manuals. Further, the job design of the Inspector Posts is built on the edifice of the rules laid down in the Postal Manuals with the latest amendments and in future, the applicant if selected, would be called upon to invigilate, supervise and conduct exams in question. If he does not know how to follow the basic rule in appearing in an exam i.e. recording/bubbling the hall ticket number, then the moot point is as to whether he could hold the responsible post of Inspector! It is not the case of the applicant that he was singled out to face rejection of his request but others too in a similar predicament were given the same treatment. The respondents did confirm that the fate of 390 candidates was the same as that of the applicant for the similar cause of action namely “Error in OMR sheet”. In this context, the Hon’ble Supreme Court has referred to its



own observation in *Umesh Chandra Shukla v U.O.I [1985] 3 SCC 721*] in *G. Hemlathaa* supra, wherein it was emphatically observed that moderation is likely to create feeling of mistrust in selection to Public appointments resulting in violation of the Principle of Equality and may lead to arbitrariness. Applying the said principle to the case on hand there have been 390 candidates who have not been considered for committing errors in filling up the OMR sheets. Therefore, granting relief as sought by the applicant and excluding others though the Tribunal being sentient of the same, would tantamount to violating the principle of equality and may lead to arbitrariness. Further it gives scope for mistrust about the selection process.

3. In respect of the judgment of the Division Bench of the Hon'ble High Court for the State of Telangana in WA No. 1525/2018 & Batch, relied upon by the applicant, was delivered on 3.6.2019, whereas of the Hon'ble Supreme Court in the *State of T.N. vs. G.Hemlathaa* on 28.8.2019, which was taken support of by this Tribunal, is subsequent to the judgment of the Hon'ble High Court for the State of Telangana. Therefore, Hemlathaa verdict will hold ground in regard to the issue under dispute and it is this judgment, which is the main basis for rejecting the relief sought by the applicant. The Judgment of the Hon'ble Supreme Court in *Karnataka Public Service Commission & Ors v B.M. Vijaya Shankar & Ors, AIR 1992 SC 952:(1992) 2 SCC 206* was adduced since it was referred to by the respondents to support their contentions. The said judgment of the Hon'ble Supreme Court in

Karnataka Public Service Commission has been followed by the Hon'ble High Court of Allahabad in Writ-A No.445/2020, vide judgment dt. 27.01.2020, as can be seen from its judgment in Writ-A No.849/2020, cited by the respondents.



As contended by the respondents, the decision of the Hon'ble High Court for the State of Telangana in WA No. 1525/2018 & Batch was based on different facts and circumstances wherein there were mistakes committed by the Invigilators in distribution of Question Booklets and OMR sheets to the candidates and the District Collectors and Chief Superintendents of the Examination Centres submitted reports about these goof-up; and the Public Service Commission constituted a Technical Committee, which also found fault with the Invigilators and submitted its report with certain recommendations; and that the findings of the said Report were approved by a Sub-Committee, which was constituted by the Public Service Commission to examine the feasibility of implementation of the recommendations of the Technical Committee. It is very clear from the judgment of the Hon'ble High Court that the Invigilators in some exam centres were at fault and that the Public Service Commission had taken a decision not to disqualify those candidates, but to evaluate their answer sheets. In those circumstances, Hon'ble High Court of Telangana, in its judgment in WA No. 1525 of 2018 & Batch, dt. 03.06.2019, directed the Telangana State Public Service Commission to go by the report of the Technical Committee and the recommendations of the Sub-Committee and prepare the select list of candidates after fine tuning the same with respect to the disputed

questions. Further, the examination in question before the Hon'ble High Court was a direct recruitment, whereas in the instant case, the exam in question is a Limited Departmental Competitive Examination conducted for in-service candidates.



Incidentally, a Division Bench of the Hon'ble High Court of Judicature at Hyderabad vide its order dt. 18.11.2015 in WP No.28874/2015, in connection with Combined Graduate Level Examination-2014 conducted by the Staff Selection Commission for Direct Recruitment, directed the said Commission to undertake evaluation of the answer sheets of all such candidates who might have made an error in not thickening/ blackening the appropriate circles relating to one column or the other for hall ticket number, roll number and accordingly declare their results. Upon the said judgment being challenged in Petition for Special Leave to Appeal (C) No. 18592/2016, the Hon'ble Supreme Court, vide order dt. 30.07.2019, set aside the general direction given by the Hon'ble High Court in WP No. 28874/2015 while limiting the relief to the respondent therein and leaving the question of law raised by the Union of India open. Thus, by implication, we are of the view that the Hon'ble Supreme Court has not agreed to the legal principle laid down by the Hon'ble High Court and kept the question of law open. Hence, when the question of law was kept open, we were of the view that the law laid down by the Hon'ble Supreme Court in Karnataka Public Service Commission cited supra holds good wherein the candidate wrote the hall ticket number in places where not required, violating the mandatory instructions. Therefore, it

may not be correct on part of the applicant to aver in his written arguments that the Tribunal has not appreciated the fact that the Hon'ble High Court has distinguished the Hon'ble Apex Court judgment in Karnataka Public Service Commission v. B M Vijaya Shankar referred to. In fact, Hon'ble High Court in its judgment in WA No.1525/2018 & batch only observed that "*the context in which the Hon'ble Supreme Court made certain observations in its decision in B M. Vijaya Shankar, cannot be lost sight of.*" We are of the view that the Hon'ble High Court by making the above observation has emphasized on the context to be borne in mind. The context and cardinal principle on which OA 483/2020 was dismissed is violation of mandatory instructions, which is the broad legal principle laid down in B.M. Vijaya Shankar supra. As stated supra, the judgment in B.M. Vijaya Shankar has been referred to by the Hon'ble High Court of Allahabad in a recent judgment dt. 05.02.2020 in Writ-A No.849/2020 cited by the respondents.

4. The judgment of the Hon'ble High Court of Allahabad in *Satveer Singh v Union of India* in W.P No.30855 of 2017 dated 13.9.2019 has not taken into consideration the observation of the Hon'ble Supreme Court in State of T.N v G.Hemalathaa supra delivered on 28.8.2019 and hence, it is *per incuriam*. Besides, the Hon'ble Allahabad High Court, vide its judgment delivered as recently as on 5.2.2020, dismissed Writ-A No.849/2020 by refusing to grant similar relief sought by the petitioner therein, as under:

"9. In view of the discussions made above, I have no difficulty to hold that the error committed by the petitioner cannot be said to be minor in nature. It is the registration number and roll number, that determines the identity of the candidates. The candidate who appeared in the examination for recruitment on the post of assistant teacher, is a mature person. The petitioner should have read the instructions and should have correctly filled



the entries relating to roll number, registration number, question booklet etc. Admittedly, the petitioner has incorrectly filled roll number by blackening circle. In the OMR sheet it was clearly mentioned in instruction no 15, that the candidates should carefully read particulars in the OMR sheet and if roll number or question booklet series is wrongly filled or any entry is not filled, then it shall not be evaluated. Despite these instruction well within the knowledge of the petitioner, he wrongly filled up roll number. Such mistakes cannot be said to be minor in nature. If this court permits such mistakes to be corrected and the mistakes and rules framed to be followed, are allowed to be ignored where lacs of student are participating in the examination, this will lead to a situation where there be no end to such exercise. Therefore, the petitioner is not entitled for the relief as prayed. Consequently writ petition is dismissed. “



The above judgment does apply to the case of the applicant whereas the judgment in O.A. 935 of 2015 dated 11.10.2018 in *Ram Shankar v. Ministry of Railways*, cited by the applicant, was prior to the judgment of the Hon'ble Supreme Court in *G. Hemalathaa* supra and hence would not be of any assistance to the applicant.

IV. It is also pertinent that there are many other grounds, as stated hereunder, based on which the OA No.483 of 2020 was dismissed, which deserve to be mentioned for placing the issue in the right perspective.

- i. Applicant has committed the mistake by not properly bubbling the Hall ticket number. The applicant pleaded that paper IV has 2 parts mainly multiple choice and subjective. The later part has to be manually evaluated and therefore, the multiple choice part can also be corrected manually. The submission is illogical since the answer sheets are not to be evaluated by covering up the mistake of the applicant but has to be done in strict compliance of the mandatory instructions, so that the integrity of the exam process is not defiled. In addition, the applicant cannot encash his mistake to seek relief sought as laid down by Hon'ble Apex Court in ***A.K Lakshmipathy (D) & Ors. v Rai Saheb Pannalal H. Lahoti Charitable Trust (2010) 1 SCC 287.***



- ii. The respondents, as a policy, decided not to entertain any OMR sheet with errors. Tribunal cannot interfere in Policy matters as laid down by Hon'ble Supreme Court in *BALCO Employees' Union (Regd.) v. Union of India*, (2002) 2 SCC 333 and in *CSIR v. Ramesh Chandra Agrawal* in Civil Appeal No.1716 of 2004.
- iii. To treat sharply dissimilar persons equally is subtle injustice. The candidates who have filled in the OMR sheet properly and responsibly, like faithful tax payers, would be discriminated by allowing the relaxation sought. The very sanctity of the exam and the relevance of the rules would be compromised.
- iv. Rules laid down have to be followed and Hon'ble Supreme Court, in no uncertain terms, emphasized the necessity to follow Rules in a catena of judgments as under:

*The Hon'ble Supreme Court in **T.Kannan and ors vs S.K. Nayyar (1991) 1 SCC 544** held that "Action in respect of matters covered by rules should be regulated by rules".*

*Again in **Seighal's case (1992) (1) supp 1 SCC 304** the Hon'ble Supreme Court has stated that "Wanton or deliberate deviation in implementation of rules should be curbed and snubbed."*

In another judgment reported in (2007) 7 SCJ 353 the Hon'ble Apex court held " the court cannot de hors rules"

Repeated instructions to follow the rules in regard to writing/bubbling the correct details of the Hall Ticket number as stated on the OMR sheet, answer sheet, admit card and in P&T Manual have not been followed by the applicant. It is not understood as to how the applicant did not take cognizance of the important rules to be followed in appearing in the exam. Hall ticket number identifies the candidature of the applicant as observed by the Hon'ble High Court of Allahabad cited supra. If



the applicant does not record the hall ticket properly then how can the software identify his candidature? The answer sheet would then become a non negotiable cheque with a mistakable signature.

A cheque with doubtful signature is ineffectual, so too is the answer sheet with hall ticket number unacceptably bubbled.

Committing a mistake and pleading to grant relief as sought, by violating the rules, would be in violation of the above observations of the Hon'ble Supreme Court. Mistake is not a minor one as claimed by the applicant, since it has made the answer sheet of the applicant faceless. Anything, which is faceless is not worth a dime. To be specific, without a proper foundation there can be no building. Similarly, there can be no building of an exam without the foundation of a properly bubbled hall ticket. Hence, the mistake is too serious and does not warrant consideration as pleaded. Applicant claims that he has performed meritoriously by self-analysis but that stage comes only when he fulfills the preconditions of an exam. Applicant failed to comply with the precondition of properly bubbling the hall ticket number in the OMR sheet and hence he failed to clear the first hurdle of the exam. Therefore the assertion of the applicant of obtaining some marks, though self evaluation, would become irrelevant.

- v. Tribunal is not empowered to relax the rules framed by the respondents and accommodate the applicant's plea, as pointed out by the Hon'ble Apex Court in *Govt. of Orissa v. Hanichal Roy*, (1998) 6 SCC 626.

vi. End has to be legitimately justifiable as observed by Hon'ble Apex Court in *State of Kerala v. N.M. Thomas*, (1976) 2 SCC 310, at page 356. The applicant is seeking relief for which he is not legitimately eligible by violating the relevant rules.



vii. Rules of the game cannot be changed enroute as observed by the Hon'ble Apex Court in ***K. Manjusree v. State of A.P.*** : (2008) 3 SCC 512. The rule of the game was to write/bubble the correct hall ticket number, which cannot be changed for the sake of the applicant after the results have been announced in the exam under reference.

viii. Public interest is paramount. The post of Inspector Posts is endowed with the responsibility of managing the affairs of the Sub Division in respect of postal needs by assisting the divisional head with a fair amount of independent powers. His performance is directly related to the quality of postal services rendered in the Sub Division. Hence, any selection to this post has to be necessarily in public interest and for that matter, to any Govt. post. The public interest, thus involved, is to select someone who is capable, rule wise knowledgeable, emotionally stable and quick in decision making. When the applicant does not follow the rules at the very initial step of appearing in the exam as a potential candidate for the post of Inspector, then the question that would arise is as to what public interest he would serve, if selected. It is well understood in common parlance that those who follow Rules uphold public interest in a better way rather than those who do not. Rules usher



in organizational discipline and growth. If rules are to be bent, as is sought in the instant case, then lakhs of candidates who appear in different exams conducted by Union of India will seek similar relief on one ground or the other, thereby defeating the very purpose of framing rules. It invariably leads us to a basic question as to why then have the Rules! In this context, it is apt to borrow the observations of the Hon'ble Supreme Court in *Karnataka Public Service Commission V. B M Vijaya Shankar* cited supra that,

“Larger public interest demands of observance of instruction rather than its breach”.

Any administrative decision, as in the instant case of selection to the post of Inspector, has to be in public interest, as observed by the Hon'ble Supreme Court in Supreme Court of India in *Nidhi Kaim & Another vs State of Madhya Pradesh & Ors Etc* in Civil Appeal No. 1727 of 2016, as under:

No doubt, that the overarching requirement of Constitution is that every action of the State must be informed with reason and must be in public interest.

The public interest in the case on hand is that the examination to the post of the Inspector Posts has to be based on mandatory instructions to be followed, so that those eligible are selected. The action of the respondents to uphold the application of mandatory rules is in public interest and it cannot be found fault, keeping in view the observation of the Hon'ble Supreme Court cited above.

Lastly, having participated in the exam and his candidature getting rejected for failing to follow the instructions, the applicant cannot take a 'U' turn

and challenge the examination process. To state what we did, we reverberate the legal axiom of the Hon'ble Apex Court in *Anupal Singh and ors v State of Uttar Pradesh* in Civil Appeal Nos.4815 of 2019 with 4816-36/2019 decided on 30.9.2019 (2020) 2 SCC 173, as under:



It is settled law that a person having consciously participated in the interview cannot turn around and challenge the selection process.

The applicant being an employee of the respondents organization with 9 years experience was aware of the exam preconditions and consciously participated in it. After participation, once his candidature gets rejected for the infringement referred to, challenging the exam process on grounds which are slippery, is not synchronizing with the legal principle laid above and hence, ineligible for the relief sought.

Further, the applicant committed a Wrong and this Tribunal cannot commit another wrong by granting the relief sought, as held by Hon'ble Apex Court in Anupal Singh cited supra, as under:

It needs no reiteration that a wrong cannot be corrected by committing another wrong.

V. Therefore, based on several grounds, the OA 483/2020 was dismissed after taking support of the Hon'ble Supreme Judgments in respect of aspects which were relevant to the dispute in question. The instant OA qualitatively is no different in colour and character and therefore, has to have the same destiny.

VI. It is not out place to state that a judgment delivered must be looked from the holistic perspective and not selectively by picking up certain portions and presenting them in a disjointed manner in order to make out a case, as has been attempted by the applicant. We rely on the Hon'ble Apex Court observation in *Anupal Singh v State of U.P* supra, to state the above as under:



*68. Reiterating the above principle, in *Director of Settlements v M.R Apparao* (2002) 4 SCC 638 it was held as under:*

"7. So far as the first question is concerned, Article 141 of the Constitution unequivocally indicates that the law declared by the Supreme Court shall be binding on all courts within the territory of India. The aforesaid Article empowers the Supreme Court to declare the law. It is therefore, an essential function of the Court to interpret a Legislation. The statements of the Court on matters other than law like facts may have no binding force as the facts of two cases may not be similar. But what is binding is the ratio of the decision and not any finding of facts. It is the principle found out upon a reading of a judgment as a whole, in the light of the questions before the Court that form the ratio and not any particular word or sentence A judgment of the Court has to be read in the context of questions which arose for consideration in the case in which the judgment was delivered..... The law which will be binding under Article 141 would, therefore, extend to all observation of points raised and decided by the Court in a given case."

The ratio laid by the Hon'ble Supreme Court in **G.Hemalathaa** supra was that, in an exam the mandatory instructions stipulated have to be followed. This principle applies to the entire spectrum of exams conducted in the Country, which naturally includes those conducted by the respondents organization. Be it direct recruit competitive exam or Limited Departmental competitive exam, it makes no difference, the ratio decided applies. Hence, **Hemlathaa** referred to, applies to the case on hand with the unassailable force it commands.

VI. Further, taking support of the observation of the Hon'ble Supreme Court in **Brij Mohan Parihar v. M.P.S.R.T. Corpn.**, wherein it was

observed that relief cannot be granted which is forbidden under law, we reaffirm that the Tribunal is forbidden to allow the relief sought by applicant by taking into consideration the facts and circumstances of the case.



VII. Thus, viewed from any perspective, the instant OA is fully covered by the Judgment of this Tribunal in OA483/2020 in all respects.

Therefore, in the aforesaid circumstances, the instant OA too being devoid of merit, merits dismissal and hence dismissed. No order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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