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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1157/87 198
T.A. No.

DATE OF DECISION 15.1.1990.

Krishan Kumar Applicant (s)

Shri B.S. Gupta with Advocate for the Applicant (s)
Shri B.B. Srivastava

Versus

UOI & Ors. Respondent (s)

Shri K.C. Mittal Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judicial)

The Hon'ble Mr. I.K. Rasgotra, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *no*
4. To be circulated to all Benches of the Tribunal? *no*

JUDGEMENT

(delivered by Shri I.K.Rasgotra, Member).

The applicant filed this application under Section 19 of the Administrative Tribunals Act, 1985, challenging termination of his services in terms of sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, from the post of Lower Division Clerk vide the impugned order No. 493/87-Admn. II dated 23.7.1987. The applicant appeared in the Clerks' Grade Examination, 1982, conducted by the Staff Selection Commission on 4th July, 1982 under Roll No. 1210157. He was declared successful in the said examination with rank 23292. He was appointed as Lower Division Clerk in the Safdarjung Hospital, New Delhi, vide Annexure A-2 where he joined duty on 16.7.1984. The services of the applicant were suddenly terminated on 23.7.1987, vide the impugned order. The applicant has also raised an allied issue of the allotment of his Government quarter being cancelled,

which was regularised in his favour on the basis of the occupation of the same by his adopted father after his retirement. By way of relief, the applicant has prayed that the impugned order by which his services were terminated, may be quashed and his reinstatement ordered with effect from 23.7.1987.

2. The grievance of the applicant^{is} being dealt with through the present application only relates to the termination of his services vide order of the Tribunal dated 16.5.1988. The other issues would have to be raised by the applicant through^a separate application, if he so chooses.

3. The facts of the case are that the applicant, Shri Krishan Kumar applied for appearing in the Clerks' Grade Examination, 1982, to the Staff Selection Commission. He was allotted Roll No. 1210157. The 'Candidates' Attendance Sheet' also shows his name as 'Krishan Kumar' with roll number 1210157. The passport size photograph of the applicant with his full signatures is also affixed on the Attendance Sheet. The certificate issued by the Central Board of Secondary Education also bears the same name with the same spelling. In the photocopy of the Alpha List of the Clerks Grade Examination, 1982, relating to Roll No. 1210157, however, the name of the candidate appears as 'Krishna Kumar'. In the copy of the detailed results of all the qualified candidates of the Clerks' Grade Examination, again, the name against roll No. 1210157 appears as 'Krishna Kumar'. The merit order allotted to him is 23292.

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4. The applicant's services were terminated when it was found that the successful candidate was Krishna Kumar and not Krishan Kumar. The fact, however, remains that roll No.1210157 was allotted to Krishan Kumar. It is he who appeared in the examination, as borne out by the 'Candidate's Attendance Sheet'.

4.2 The applicant has contended that his appointment has nothing to do with cases of others who received jobs by fraudulent means. The respondents' contention however is that he is one of the person who got the job by such means.

5. Vide orders of the Tribunal dated 18.10.1989, the respondents were directed to "depute a responsible officer with the relevant records pertaining to Krishan Kumar and Krishna Kumar, mentioned above. The Department of Personnel may also inform the Tribunal as to whether any person bearing roll No.1210157 has been appointed as a Lower Division Clerk in any of the Ministries/ Departments etc. pursuant to the results of the examination held in 1982 and the particulars thereof". The relevant records were shown to the Court when the respondents admitted that no person with the name of Krishna Kumar with roll No.1210157 has been appointed on the basis of the recommendations of the Staff Selection Commission relating to the Clerks' Grade Examination held in 1982. While it was felt that the respondents may file an affidavit covering the points mentioned in the previous order extracted above, the learned counsel for the respondents at the Bar that Shri Krishan Kumar is the only person with roll No.1210157 and that no other person by the name of Krishna Kumar with roll No.1210157 is on the record of the SSC. Photocopies of the following records shown to us have also been filled by the respondents:

1. Copy of application dossier of applicant.
2. Copy of Alpha List of Clerks Grade Examination, 1982-portion relating to Roll No.1210157.
3. Copy of detailed results of all qualified candidates of Clerks' Grade Examination, 1982 (merit order) - portion relating to Roll No.1210157.

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4. Copy of List of all qualified candidates of Clerks' Grade Examination, 1982 (Roll No.order) portion relating to Roll No.1210157.

6 Having heard the learned counsel for both the parties and after having perused the records produced before us, we are of the view that there is no material before us to substantiate the contention of the respondents that the applicant was one of the persons who got the job by fraudulent means. The fact and circumstances of the case clearly indicate that a mistake was committed in the office of the Staff Selection Commission in spelling the name of Krishan Kumar as Krishna Kumar in the Alpha List and consequently, in the result sheet for the Clerks Grade Examination, 1982. While accepting the possibility of an error like this being committed inadvertently, we fail to appreciate how the rigours of the check exercised in the Staff Selection Commission allowed such an error to pass muster resulting in the termination of the services of the applicant. The error could have been detected much earlier and remedied when the applicant filed an appeal dated 30.7.1987, to the Director-General, Health Services. His representation should have received greater attention and care, particularly as he belongs to the Scheduled Caste. Be that as it may, in the facts and circumstances of the case, we quash the termination order dated 23.7.1987 and order and direct the respondents to take the applicant back on duty within 15 days from the date of communication of this order. The respondents should also allow all the consequential benefits to the applicant. There will be no order as to costs.

I.K. Rasgotra
(I.K. RASGOTRA) 15/1/90
MEMBER (A)

P.K. Kartha
(P.K. KARTHA) 15/1/90
VICE-CHAIRMAN.