

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 1713/90
T.A. No.

199

DATE OF DECISION 08.02.1991

<u>Shri Nagendra Singh</u>	Petitioner
<u>Shri M.B. Vashisht</u>	Advocate for the Petitioner(s)
Versus	
<u>Chairman, Staff Selection Commission & Others</u>	Respondent
<u>Shri N.S. Mehta</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN (J)

The Hon'ble Mr. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

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? *Yes*
4. Whether it needs to be circulated to other Benches of the Tribunal? *Yes*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. D.K.
Chakravorty, Administrative Member)

The applicant, who appeared in the open competitive examination for recruitment to the post of Inspectors of Central Excise, Income Tax etc. by the Staff Selection Commission, is aggrieved by his non-appointment though he has been selected for appointment by the said Commission. He qualified in the written test as well as in the interview. When the results were published by the Staff Selection Commission, the results of 5 candidates including that of the applicant were withheld.

2. The prayer sought in the application is that the Staff

Selection Commission be directed to declare the result of the applicant.

3. The respondents have stated in their counter-affidavit that though the applicant has been provisionally selected for appointment to one of the posts to be filled in on the basis of the examination held in 1988, he was not nominated for appointment as in the meantime, some serious complaints were received about his having used unfair practices in the written part of the examination. A preliminary enquiry into the complaints revealed that there was a prima facie case requiring investigation. The matter was, therefore, referred to the CBI for detailed investigation. The CBI has undertaken the investigation but a final report has not yet been made available. The respondents have stated that they have reminded the CBI in the matter. The respondents have relied upon the following stipulation in the notice for the examination published in the Employment News on 12.3.88:

"10. A candidate who is or has been declared by Commission to be guilty of:-

- (vi) resorting to any other irregular or improper means in connection with his candidature for the examination, or
- (viii) using unfair means in the examination hall, or
- (xi) attempting to commit or as the case may be, abetting the Commission of all or any of the acts specified in foregoing clauses, may in addition

to rendering himself liable to criminal prosecution, be liable:-

- (a) to be disqualified by the Commission from the examination for which he is a candidate, or
- (b) to be debarred either permanently or for a specific period:-
 - (i) by the Commission from any examination or selection held by them;
 - (ii) by the Central Government from any employment under them".

(vide pages 22-23 of the paper book)

4. We have gone through the records of the case and have considered the rival contentions. Strictly speaking, the relief sought in the application has already been granted by the respondents as they have declared the result of the applicant who has been provisionally selected for appointment. The real grievance of the applicant is that pursuant to such selection, he has not been appointed to a post for which he had applied for.

5. In view of the stipulation inserted in the notice for examination, extracted above, it will be open to the Staff Selection Commission to disqualify a candidate if it is established that he has used unfair means in the examination hall. An allegation to the effect that the applicant has used such unfair means has been under the investigation of the CBI. During the pendency of such investigation, we are of the opinion that the applicant is not entitled to be appointed to one of the posts for which he had applied for.

6. The examination was held in 1988. The respondents have not stated as to when complaints were received by them about the applicant having used unfair practices in the written part of the examination. In cases of this kind where a candidate at the threshold of his career is seeking public employment, any complaint about his having used unfair means should be investigated expeditiously, as otherwise it would cause hardship to him. More than 2 years have elapsed after the holding of the examination. In the interest of justice, we hold that the CBI should finalise its report as expeditiously as possible, but in no event later than 4 months from the date of receipt of this order by the respondents. The respondents should also take a decision on the candidature of the applicant in the light of the report submitted by the CBI within a period of one month thereafter.

7. The application is disposed of at the admission stage itself with the aforesaid directions. There will be no order as to costs.

Deekar 8/2/89
(D.K. CHAKRAVORTY)
MEMBER (A)

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8/2/89
(P.K. KARTHA)
VICE CHAIRMAN (J)