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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

OA.No.419/91

Date of Decision: 6.9.91.

SHRI ANIL KUMAR SHARMA

Applicant

SHRI M.B. VASHIST

Counsel for the applicant

UNION OF INDIA & ORS. Vs.

Respondents

SHRI N.S. MEHTA

Counsel for the respondents.

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

The Hon'ble Mr. B.N. Dhoundiyal, Member(A)

JUDGEMENT

(of the Bench delivered by
Hon'ble Shri B.N. Dhoundiyal, Member)

This application has been filed by Shri Anil Kumar Sharma under section 19 of the Administrative Tribunal Act, 1985 against his non-appointment to the post of Inspector Central Excise, Income Tax etc. even though he was declared successful at the All India Competitive Examination of 1988.

2. The results of All India Competitive Examination for recruitment to the post of Inspectors Central Excise, Income Tax etc. conducted by the Staff Selection Commission(SSC) on 17.07.1988 and published in the Employment News of Saturday the 5th August 1989 shows that Role No.2612887 allotted to the applicant was included in the result of successful candidates and his name was recommended for appointment subject to Police verification. In spite of

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the fact that more than 1½ years have elapsed since the result was declared and the Staff Selection Commission has been reminded by him through Registered letters a number of times, no satisfactory explanation for this inordinate delay has been received. Meanwhile, the candidates securing lower position than the applicant have been given appointment to the posts of Inspectors of Central Excise and Inspectors of Income Tax. He has prayed that the respondents may be directed to implement the recommendation of the Staff Selection Commission and provide the applicant with the post of Inspector of Central Excise in accordance with the order of merit.

3. The respondents have admitted that the applicant was provisionally selected for appointment to one of the posts to be filled up on the basis of the result of Inspectors of Central Excise, Income Tax Examination, 1988. However, he was not nominated for appointment as in the meantime some serious complaints were received against him for having used unfair practices in the written part of the examination. Preliminary enquiry into the complaints revealed that there was a prima facie case requiring investigation. The matter was, therefore, referred to the C.B.I. for detailed investigation but a final report has not yet been made available.

The notice for this examination which was advertised in the Employment News, published on 12.03.1988, includes the following specific provisions:

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

(vi) resorting to any other irregular or improper means in connection with his candidature for the examination,

(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 be 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 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."

11. We have gone through the records of the case and have considered the rival contentions. In view of the stipulation in the notice for examination as aforementioned, the Staff Selection Commission can disqualify a candidate if it is established that he has used unfair means. If during the pendency of such investigation, the Staff Selection Commission has not appointed him to the post for which he had been selected, they have ^{only} acted within their rights.

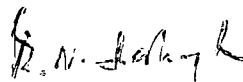
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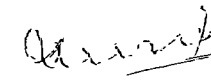
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This matter has been considered by the Judgement dated 8.2.91 of this Tribunal by a Bench of which one of us (Hon'ble Shri P.K. Kartha) was a member, in the case of Shri Nagendra Singh Vs. Chairman, Staff Selection Commission (O.A.1713/90) where it was held that the applicant was not entitled to be appointed to the post for which he has been recommended during the pendency of investigation into use of unfair means in the examination hall. The Tribunal had observed that any case of this nature should be investigated expeditiously, as otherwise it would cause hardship to the candidate if it is ultimately found that he was innocent.

13. In the interest of justice, we hold that CBI should finalise its report in respect of the applicant as expeditiously as possible, but in no case later than six months from the date of receipt of this order by the respondents. The respondents should also take the decision on the candidature of the applicant in the light of the report submitted by the CBI within the period of one month thereafter.

14. The application is disposed of accordingly. There will be no order as to costs.


(B.N. DHOUNDIYAL) 6/2/81
MEMBER(A)


(P.K. KARTHA) 6/2/81
VICE CHAIRMAN(J)