

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

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O.A. NO. 415/2004

New Delhi, this the 16th day of December, 2004

**HON'BLE JUSTICE SHRI V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.K. MALHOTRA, MEMBER (A)**

1. Lalit Singh, S/o Shri Devender Singh,
R/o H. No. 391 Nab Sarai,
New Delhi – 110 068, Roll No.D-55
2. Subhash Chander Saini, S/o Inder Singh Saini,
R/O H.No.799/20,
Sainipura Rothak, Haryana,
Roll No. B-41
3. Sanjay Kumar, S/o Tara Chand,
R/o Z-62 B, Block, New Roshan Vihar,
Najafgarh-43
Roll No.D-63
4. Rajeev, S/o Sh. A.N. Arya,
R/o 1696 Sohanganj,
Delhi-110 007, Roll No.B-40
5. Ranbir Singh, S/o Sh. S.B. Singh,
R/o H. No. 60-D, CBI Colony,
Vasant Vihar, New Delhi
Roll No.E-29
6. Ram Niwas, S/o Sh. Tej Singh,
R/o Vill. Kadma Distt. Bhiwani,
Haryana, Roll No.A-127
7. Yog Raj S/o Khub Ram Verma,
R/o H.No.F-232 South Moti Bagh,
Nanakpura, New Delhi – 110 021
Roll No.L-14
8. Kamal Raj, S/o Khubn Ram Verma
R/o H.No.F-232 South Moti Bagh,
Nanakpura, New Delhi – 110 021
Roll No. L-24
9. B.C. Yadav, S/o Tilku Yadav,
R/o 55 R, CBI Colony, Vasant Vihar,
New Delhi – 57, Roll No.E-137
10. Gajpal Singh S/o Shri Ramphal,
R/o Vill. Ashola Near Fatahpur,
New Delhi Roll No.E-76

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11. Om Prakash. S/o Shri Molhi Singh,
R/o Vill. Atyal Distt. Rohtak,
Haryana (Roll No.G-97)
12. Ajay Singh S/o Shri Narain Singh
Vill. Atyal Distt. Rohtak,
Haryana (Roll No. D-51)
13. Sunil Rawat S/o Sh. Kanwar Singh
R/o Qr. No.146/4 Sec.I,
Pushp Vihar, New Delhi
Roll No.C-07
14. Devender Singh S/o Bharat Singh
R/o Qr. No.1825, Sector 3,
Pushp Vihar, New Delhi
Roll No.C-7
15. Sanjay Rawat, S/o Sh. Mohan Singh Rawat,
R/o Qr. No.250, Sector-1,
Sadiq Nagar, New Delhi-49
Roll No.C-101
16. Vipin S/o Sh. J.C.Prabhakar,
Qr. No.6/659, Lodhi Colony, New Delhi
Now resident at 24B, Pocket-A, Hari Nagar,
Opp. Hari Nagar Depot, Jail Road,
New Delhi (Roll No.)
17. Rakesh Kumar, S/O Sh. Hira Singh.
R/o Qr. No.57, Sec-1,
Type II, Sadeeq Nagar,
New Delhi-49 (Roll No.C-99)
18. Vijay Kumar, S/o Sh. K.D. Tiwari,
R/O Qr. No.123, Sec. 12, R.K. Puram,
New Delhi (Roll No.C-03)
19. Anil Kumar, S/o Tej Kumar,
R/o Qr. No.56H, CBI Colony,
Vasant Vihar, New Delhi
Now Resident at Khashra No.799/4,
Near JBTS Garden,
Chattarpur Ext., New Delhi
Roll No.B-97
20. Dharamender Singh, S/o Azad Singh,
R/O Vill & PO Jashor Kheri,
Bahadurgarh, Distt. Jhajhar,
Haryana, Roll No.C-108
21. Davender Kumar,
S/o Sh. Binda Lal, R/o H.No.93/9,
Sector-1, Pushp Vihar, New Delhi

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22. Surender Kunar S/o Shri Yashpal,
R/o Village Bhalot, Dist. Rohtak
23. Jitender Kunar, S/o Sh. Nawal Singh,
R/O RZP/Z, Raj Nagar, New Delhi
24. Guru Charan Singh S/o Harbans Singh
R/O Basti Harpool Singh
Sardar Thana Road, Delhi-6

... Applicants

(By Advocate: Shri Vibhu Bhakhra & Ms. Jugnu Bagga)

Versus

1. Union of India, through
The Secretary,
Government of India,
Ministry of Personnel, Public Grievances & Pension,
North Block, New Delhi
2. The Director,
Central Bureau of Investigation,
CGO Complex, Block No.III,
Lodhi Road, New Delhi

... Respondents

(By Advocate : Shri H.K. Gangwani & Shri B.K. Aggarwal)

ORDER (Oral)

BY HON'BLE MR. S.K. MALHOTRA :

The applicants in this OA have prayed that the recruitment process for making appointments against 134 posts of Constables Male/Female (Executive) and 5 Constables (Motor Transport) held in April, 2000 by the C.B.I. may be quashed and set aside.

2. The facts of the case, briefly, are that the respondents had issued an advertisement in April, 2000 for selection and appointment of Constables in the C.B.I. According to the advertisement, the candidates were required to qualify a test of physical efficiency, a written examination and thereafter an interview. The applicants applied for the post of Constables. The physical efficiency test was conducted from the 24 to the 28th April, 2000. It has been alleged that while conducting this test, a lot of favouritism was shown to certain candidates; some candidates who were not even physically fit were later declared selected. The test for high jump was conducted in such a manner, which would have allowed favouritism to certain candidates. It is also alleged that the written test which was to be held on the 28th April, 2000

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at 9 a.m. was, in fact, started at 7 in the evening. The candidates were asked to sit in the open ground in extremely poor light and loose blank sheets of papers were given to them for answering the questions, which were dictated on microphone. There were no desks or any other provisions for writing and the candidates had to put the blank sheets on the ground for writing the answers.

3. The results of the physical efficiency test and written examination were announced on the 29th April, 2000 and the interview was held on that very day itself. On the 30th April, 2000 the result was declared. The applicants in this OA, who had participated, did not find their names in the list of successful candidates. It has been alleged that many candidates whose relations had been working in the CBI found place in the list of successful candidates.

4. The applicants had approached the Tribunal by filing an OA No.1034/2000 seeking quashing of the recruitment process. In the meantime, the respondents had also received a number of complaints of irregularities in the process of recruitment. They appointed a Committee to look into the matter and based on the report of the Committee, a decision was taken by the respondents to cancel the recruitment process and the selections made thereof. Accordingly, the Tribunal dismissed the above OA as having become infructuous. One of the selected candidates aggrieved by the order of cancellation of the recruitment process by the respondents filed an Application in the Ernakulam Bench of the Tribunal, but the same was dismissed. Aggrieved by the order of the Tribunal, the candidate approached the Hon'ble High Court of Kerala. The Hon'ble High Court vide order dated 20.12.2001 set aside the order passed by the Ernakulam Bench of the Tribunal on the ground that the selection process is not tainted with any illegality. The respondents had admitted that they had committed certain mistakes in the evaluation of answer sheets. The Hon'ble High Court held that there was no reason to vitiate the entire selection process. It was directed that the respondents' department should complete the entire recruitment process and take steps to correct the discrepancies, re-arrange the select list and complete the selection process (Annexure A/9). The CBI challenged this order of the Kerala High Court before the Hon'ble Supreme Court by filing a SLP, which was dismissed (Annexure A/10).

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5. The applicants have now filed the present OA stating that the issues raised by them have not been adjudicated upon either by the Tribunal or by the Hon'ble High Court. According to them, the whole recruitment process is illegal and arbitrary. A number of infirmities and irregularities have been pointed out in the conduct of the physical test. Even earmarking of 20% of the total marks for interview is illegal and arbitrary, as it should not have exceeded 15% according to the settled law. A lot of favouritism and nepotism has been shown in the selection of a number of candidates. The condition under which the written test was conducted was totally inhuman and as such the whole process of selection deserves to be quashed.

6. Respondents have filed the counter reply in which they have stated that the Hon'ble High Court, Kerala had held that the selection process was not tainted by any illegality. Para 11 of the judgement reads as under :-

"In this case the reasons stated by the CBI for cancellation of the entire selection process are arbitrary and will not stand in the eye of law. After having found that selection process is not tainted with any illegality and that in the absence of any complaint against examinees indulging in malpractices, mere fact that CBI themselves have committed certain mistakes in the valuation and in the answer sheets would not vitiate the entire selection process. We are of the view in this case discrepancy, if any detected in the answer sheets is a discrepancy which has to be corrected by CBI themselves for which persons like the petitioner cannot be penalized. We have therefore no hesitation in the facts and circumstances of the case to direct the CBI to complete the entire recruitment process. CBI must take steps to correct the discrepancies and re-arrange the select list and complete the selection process. This would be completed within a period of two months from the date of receipt of a copy of this judgement. It is so ordered. The order of the Tribunal would therefore stand set aside. Original petition is allowed as above."

7. The above decision was upheld by the Hon'ble Supreme Court vide judgement dated 30.7.2003, the relevant portion of which reads as under:

"For all the reasons stated above, we could not find any infirmity whatsoever in the judgement of the High Court which adopted a practical, pragmatic, rational and realistic solution to the problem. The appeal, therefore, fails and shall stand dismissed. The interim order earlier granted thus automatically stands revoked. The appointments shall be made within 60 days from this day without any further delay. No costs."

8. The above directions of the Hon'ble Supreme Court have already been complied with and the list of 134 candidates finally selected has been published in the Employment News in

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January 2004. According to the respondents, this Tribunal has no jurisdiction to reverse the directions of the Hon'ble Supreme Court and as such the present application is infructuous and not maintainable. It was also pointed out that the selected candidates had not been made parties in the O.A. and the same is also barred by limitation.

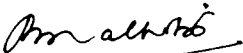
9. We have heard both the learned counsel for the parties and have also gone through the pleadings including the rejoinder filed by the applicants.

10. The main point emphasized by the learned counsel for the applicants was that the whole selection process suffered from various irregularities. That is the reason the CBI themselves after due consideration had cancelled the selection process itself. The points raised in the OA like inadequate lighting arrangements, no proper sitting arrangements for the candidates for the written test and nepotism and favouritism shown during physical efficiency test etc. have not been examined by the Tribunal or the Hon'ble High Court/ Hon'ble Supreme Court. The learned counsel for the respondents vehemently opposed the above contentions and stated that the report of the Committee constituted by the CBI which had gone into the irregularities was made available to the Hon'ble High Court. The Hon'ble High Court had observed that the whole selection process was cancelled by the respondents mainly due to the reasons that in some answer sheets incorrect answers had been marked as correct and allotted marks, whereas in some other answer sheets correct answers had been marked incorrect and denied marks. In some answer sheets, the examiner missed to evaluate one or more answers. There was also no complaint against examinees indulging in malpractices. Considering all these aspects, the Hon'ble High Court directed the respondents to correct the discrepancies, re-arrange the selected list and complete the selection process. The Hon'ble Supreme Court had also observed that they could not find any infirmity whatsoever in the judgement of the Hon'ble High Court which adopted a practical, pragmatic, rational and realistic solution to the problem. In view of the fact that the Committee report was available with the Hon'ble High Court and all the related issues were discussed and adjudicated upon by the Hon'ble High Court and the decision upheld by the Hon'ble Supreme Court, it will not be appropriate for this Tribunal to go into the alleged irregularities pointed

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out in the present OA. Whatever discrepancies were observed by the Committee, the same had been corrected by the respondents and the result of the successful candidates has been declared. Apparently the applicants in the OA did not find a place in the list of successful candidates, as they failed to secure adequate marks to come within the merit list prepared by the respondents. It does not call for any intervention by us.

12. In view of the above, the OA turns out to be devoid of any merit and is accordingly dismissed. No costs.


(S.K. Malhotra)
Member (A)


(V.S. Aggarwal)
Chairman

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