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OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD.**

ORIGINAL APPLICATION NO. 220 OF 1997.

THIS THE 16TH DAY OF AUGUST, 2005.

HON'BLE MR. S.C. CHAUBE, MEMBER-A
HON'BLE MR. K.B.S. RAJAN, MEMBER-J

Dinesh Kumar Valmik, aged about 30 years, S/o Sri G.L.
Valmik, R/o T.B. Sabru Hospital, Allahabad.

.....Applicant.

By Advocate : Sri A. Srivastava.

Versus.

1. Union of India through Director General, Staff Selection Commission, Block No. 12 C.G.O. Complex, Lodhi Road, New Delhi.
2. Regional Director, Staff Selection Commission, 8-A, Beli Road, Allahabad. Respondents

By Advocate : Sri P. Mathur..

ORDER

BY K.B.S. RAJAN, MEMBER-J

The Staff Selection Commission which permitted the applicant to sit in the Written examination and he having qualified in the same, also permitted to participate in viva voce had cancelled his candidature on the ground that on the basis of signature furnished by him, the Commission was of the opinion that the applicant has procured impersonation to secure a Govt. job by fraudulent means. This O.A. is against the above decision.

2. The capsulated facts of the case:



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(a) The applicant, aspirant for the post of Inspector of Central Excise etc. applied for the said post in the wake of an advertisement published by the Staff Selection Commission some time in 1993. He having fulfilled the requisite qualifications was allotted necessary Roll No. and was permitted to participate in the written examination. During the examination, his identity was verified with particular reference to the Photograph furnished by the applicant and also his signature taken. On his qualifying in the written Exam., he was called for interview when also, the identity of the applicant was verified.

(b) While the applicant was anticipating a favourable response of appointment, he was served with memorandum directing him to attend the office of respondent no.2 vide order dated 29.12.1994 and the applicant on visiting the office of the respondents was subjected to verification with reference to his photograph.

(C) The results of the examination conducted were announced in January, 1995 and the applicant was also one of the successful candidates declared provisionally successful under the U.P. Zone. As such while the applicant was sanguinely hoping to get his offer of appointment, to the applicant's shock and dismay, he was issued with a memorandum dated 13.6.95 that his signature and hand writing did not tally with those on his answer sheets thereby establishing that he has procured impersonation in the aforesaid examination. The applicant had given his explanation on 28.6.95 and the same was followed by two more

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(29)

representations. It was thereafter that the applicant was informed by letter dated 9.12.1996 that his candidature was cancelled by the Commission as it was of the opinion that the applicant has procured impersonation to secure a Govt. job by fraudulent means.

(d) To the grounds of challenge, the applicant has contended that during written examination, he was, as every other candidates too were, subjected to identity verification and his signature was obtained in the prescribed form. The questions were of objective types warranting only Tick mark in the relevant columns and as such there is no question of hand writing etc. It also contended that in the Interview also, his identity was verified. Further, the respondents have failed to furnish copies of those documents on the basis of which they had come to conclusion that the applicant procured impersonation in the examination.

3. Necessary Counter was filed wherein the respondents have stated that due to enormous number of applications, it is impossible to securitize the application forms at the initial stage and all the eligible candidates were allowed to appear in the examination purely on provisional basis and it is thereafter that necessary verification would be carried out. Further, it was stated that "the photograph are checked usually in a perfunctory manner" and the verification of the entire dossier is done at the latest stage. In the instant case, the photograph appearing on the attendance sheet was not received from the sub-centre, where the applicant wrote the examination and the possibility of mal-practice could not be over-viewed. The

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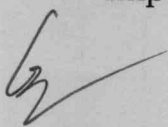
(25)

respondents have furnished Supplementary Counter Affidavit whereby they had annexed the copy of order dated 12.2.2004 in O.A. no. 429 of 2003 wherein also such an identical situation took place, but the O.A. filed was rejected.

4. Rejoinder was filed by the applicant in which he had reiterated his contentions and grounds.

5. Arguments were heard and the documents perused. The counsel for the respondents at the very outset fairly conceded that the violation of principle of natural justice inasmuch as the documents on the basis of which the Commission came to the conclusion to cancel the candidature of the applicant were not made available to the applicant. He has, therefore, prayed for an order of remand so that the matter would be processed from the stage of making available the requisite documents to the applicant. The counsel for the applicant, however, submitted that sufficient damage has already been done to the applicant in that, the matter pertaining to 1995 has not been concluded even after a decade and incase such an remade order is made, it would only result in further delay, which would be calamitous to the service career of the applicant.

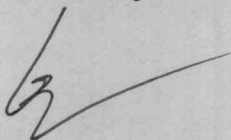
6. The SSC has fool proof system of conducting the examination in the most scientific and systematic way and there is minimum possibility of impersonation. The affixation of photograph which is available for the Invigilators at the time of examination is most surest way of ensuring that there is no impersonation. Change in handwriting or for that matter minor



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variation in signature are not un-common when candidates with full anxieties and tension in their mind appear in the examination. The examination was not confined to written only but was followed by interview as well when the applicant's mettle was tested and his result as provisionally successful was based on both written as well as the interview. Considering these facts, we are of the considered opinion that the cancellation of the candidature of the applicant on a mere doubt of variation in the hand writing/signature, especially behind the back of the applicant without making available the basis of their conclusion cannot stand judicial scrutiny and the decision to cancel the candidature of the applicant vide order dated 9.12.96 (impugned) is held as illegal and unjustified. As such the same is liable to be quashed and we accordingly order so.

7. The O.A., therefore, succeeds. The applicant has prayed for a direction to the respondents to issue necessary appointment letter and any other direction as deemed fit as well as consequential benefits. The applicant is entitled to be offered the appointment of Inspector in accordance with the rank position he had obtained in 1993 examination and the respondents are directed to pass necessary orders in this regard. He would be placed in the very same batch of 1993 examination and the seniority would also be fixed according to his merit. His pay will be notionally fixed from the date his immediate junior joined the service and his pay will be fixed actually after grant of notional increment for every completed year of notional service from the date he joins the post of

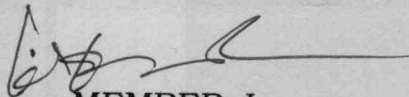


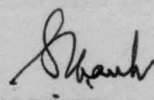
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Inspector. Incase, if any, system of qualifying in the departmental examination for further promotion exists, on the applicant's qualifying the same in the very first attempt, he would be deemed to have so qualified in that year in which he would become eligible to appear for such departmental test if he were appointed at the appropriate time in the post of Inspector.

It is made clear that no arrears are payable to the applicant.

8. The above drill shall be completed within a period of four months from the date of communication of this order. No costs.


MEMBER-J


MEMBER-A

GIRISH/-