

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD.

Allahabad this the 10th day of December 1999.

Original Application no. 1240 of 1998.

Hon'ble Mr. S. Dayal, Administrative Member  
Hon'ble Mr. S.K.L. Naqvi, Judicial Member

Amitabh Singh, S/o Shri P.K. Singh,  
r/o 11/10 Alopibagh, Panjabi Colony,  
Allahabad.

... applicant

C/A Shri Shishir Kumar

Versus

1. Union of India, through Secretary, Staff Selection Commission, Block N1 12, C.G.O. Complex, Lodhi Road, New Delhi.
2. Staff Selection Commission Central, Region Through its Regional Director, 8A-B Beli Road, Allahabad.

... Respondents

C/R Shri P. Mathur

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ORDER

Hon'ble Mr. S. Dayal, Member-A.

This application has been filed for setting aside order dated 16.10.98 and direction to the respondents to issue appointment letter in favour of the applicant forthwith and the applicant should be treated in service from the date when rank no. 91 of the list of successful candidates have been given appointment, as the applicant claims that <sup>his</sup> rank ~~rank~~ is 92. Cost of the application has also been prayed for.

2. Heard the arguement of Shri Shishir Kumar for the applicant and Shri P. Mathur for the respondents and perused the record.

3. The applicant has challenged the memorandum dated 16.10.88 issued by Staff Selection Commission, Central region, in which it has been stated that show cause notice has been issued to the applicant under rule, to show cause as to why action should not be taken against him for using unfairmeans by procuring impersonation in the examination for recruitment of clerk 1996. The reply of the candidate dated 17.09.98 was not found to be satisfactory. Hence, candidate was debarred from appearing in all future examination for a period of 3 years w.e.f. 22.09.96. The applicant had appeared in Routine Grade Clerk held by S.S.C. and was issued admit card bearing role no. 2421700. Written examination was to be held on 22.09.98. After declaration of result of written test, the successful candidates was called for typing test on 25.08.97.

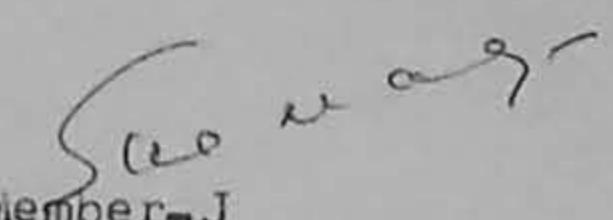
4. The challenge of impugned order on the ground that in the notice issued to the applicant it was mentioned that signature and handwriting of the applicant as available in the application form did not tally with the photo bearing attendance sheet in the examination. Later on in the same notice it has been mentioned that the applicant has procured impersonation in the written examination/typing test. Learned counsel for the applicant has contended that the respondents have mentioned in their CA that the application form of the applicant is not available. Therefore, the mention of admission form in the memorandum dated 04.09.98 was misleading and no action could have been taken on the basis of an erroneous show cause notice. The respondents have shown to us dossier in which the original application of the applicant for the examination is not available, but certain documents pertaining to the candidature of the candidate have been kept including report of hand writing expert. We have seen the answer sheet of clerk grade examination. These appears to have been photo copies. Hence, dossier as produced before us does not seem to contain documents compared by hand writing expert.

5. Hence, in this case a wrong show cause notice mentioning comparison of signature and handwriting as available in the application form with the specimen signature and hand writing provided by the candidate is said to be the basis of taking action. The admission form is not available and was not supplied to the hand writing expert. Under such circumstances action taken on the basis to this show cause notice can not be sustained. The order dated 16.10.98 is set aside. The respondents shall have right to issue a fresh notice to the applicant giving him correct facts and then consider the represent-

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ation and pass appropriate orders. With these directions the O.A. is partly allowed.

6. There shall be no order as to costs.

  
Member-J

  
Member-A

/pc/