

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

(THIS THE 19 DAY OF 5 2010)

***Hon'ble Mr. A.K. Gaur, Member (J)
Hon'ble Mr. S.N. Shukla Member (A)***

Original Application No.1147 of 2001
(U/S 19, Administrative Tribunal Act, 1985)

Hariom Kumar Singh a/a 27 years Son of Sri Brijendra Bahadur Singh
Resident of Village and P.O. Khairpur District Sonbhadra.

..... *Applicant*

By Advocate : Shri S.K. Mishra

Versus

1. Union of India through the Secretary Department of Personnel and Training and Public Grievances, New Delhi.
2. The Staff Selection Commission (Central Region) 8A/B Beli Road Allahabad through the Regional Director.
3. The Regional Director, Central Regional Staff Selection Commission 8A/B Beli Road, Allahabad.
4. The Staff Selection Commission, Block No.12 Kendriya Karyalaya Parishad, Lodi Raod, New Delhi through its Secretary.

..... *Respondents*

By Advocates : Shri R.D. Tiwari

ORDER

(Delivered by Hon'ble Mr. A.K. Gaur, J.M.)

Through this Original Application, applicant has claimed following main relief/s:-

- “ 1. to quash the order dated 14.08.2001 (Annexure A-1 to Compilation 'I')
2. to issue a mandamus directing the respondents to declare the applicant in respect to the selection and recruitment

✓

for Inspector of Central Excise, Income Tax etc, in pursuance to the Examination of 1996 and if the applicant has been selected to recommend his name for appointment by the competent authority from the date the persons allowed in merit to the applicant has been appointed with all consequential benefits."

2. The facts of the case, in brief, are that in pursuance of the Notification dated 25.11.1995, the post of Inspectors of Central Excise, Income Tax Department was advertised in Employment News/Rozgar Samachar. Having requisite qualification and being a member of O.B.C. Community, the applicant applied for the said post and Roll No.2411491 was allotted to him. After appearing in the written test held on 13.06.1999, result was declared in which applicant was found successful and was called for interview vide letter dated 12.05.2000. According to the applicant, he appeared in the interview but instead of declaring his result a memorandum dated 11.08.2000, was issued to the applicant by which the applicant was directed to appear before the Secretary/respondent no.2 within 15 days. According to the applicant, when applicant appeared before Respondent No.2, he was provided few blank pages for making his signature in Hindi as well as English language. Vide memorandum dated 19.07.2001 the applicant was required to show cause as to why his candidature may not be cancelled and he be debarred from appearing in the examination of the Commission, because the specimen Hand Writing was not tallying with the script of written examination and as such the matter was referred to the Government Examiner, Bureau of Police Research and Development, Government of India, who verified the said allegations.

✓

3. Being aggrieved, applicant filed a representation dated 06.08.2001 requesting the respondents no. 2 & 3 to furnish copy of the finding of the Government Examiner and any other materials relied upon against him. According to the applicant, without giving any reply to the representation dated 06.08.2001, respondents no.4 passed impugned order dated 14.08.2001 whereby, he cancelled the candidature of applicant for recruitment of Income Tax Inspectors and further debarred him for a period of three years from all future examination of the commission.

4. By refuting the case of the applicant, respondents have filed Counter Affidavit and submitted that during the course of scrutiny in interview test, it was detected that the signature and handwriting of the applicant as available in his application form and the specimen handwriting provided by him do not tally with that on the photo bearing attendance certificate of the written examination. The candidate was therefore suspected to have procured impersonation in the written examination which was subsequently confirmed by GEQD, Shimla. Therefore, the candidature of the applicant for the recruitment of Inspectors of CE/IT etc, 1996 was cancelled after giving show cause notice and he was debarred from appearing in all future examinations of the Commission for a period of three years.

5. Learned counsel for the applicant has filed Rejoinder Affidavit denying the averments contained in the Counter Affidavit and reiterated the same facts as enumerated in the Original Application.

6. We heard Sri S.K. Mishra, learned counsel for the applicant and Sri S.N. Chatterji, holding brief of Sri R.D.Tiwari, appearing on behalf of the respondents and perused the written argument filed on behalf of the applicant.

7. Learned counsel for the applicant vehemently argued that the impugned order is wholly cryptic, non speaking and has been passed in utter violation of principles of natural justice and fair play. Learned counsel for the applicant would further contend that the copy of the Hand Writing Expert Report has never been furnished to the applicant in spite of repeated reminders and request made by the applicant. The Inquiry is ex parte, in support of his argument, learned counsel for the applicant has placed reliance on the decision of this Tribunal rendered in O.A. No. 709 of 2003 (Vimlesh sonkar Vs. Union of India & Ors) along with other connected matter decided on 11.02.2004, in order to buttress the contention that cancellation of candidature of the applicant is not according to law and is violative of principle of natural justice and fair play.

8. Learned counsel for the respondents, on the other hand, placed reliance on the decision of Hon'ble Supreme Court reported in **AIR 1988 SC 117: Chandrama Tewari Vs. Union of India** and submitted that non-supply of the report of Hand Writing Expert will not lead to any prejudice nor will it result in breach of natural justice. The submission advanced by the learned counsel for the applicant that by non supplying the report of the Hand Writing Expert serious prejudice has been

caused to the applicant, cannot be accepted at all. In the case of Chandrama Tewari (supra) it was held that “*if copies of relevant and material documents including the statement of witnesses recorded in the preliminary inquiry or during investigation are not supplied to the relevant employee facing the enquiry and if such documents are relied in holding the charges framed against the officer as proved, the enquiry would be vitiated for violation of principle of natural justice*”. Learned counsel for the respondents has also placed reliance on the decision of Hon’ble Supreme Court reported in **AIR 2002 SC 1119: Union of India & Ors. Vs. O Chakradhar** and submitted that *this case has no application to the facts of the present case for the reason that it was a case of “widespread and all pervasive irregularities” played in the examination and the entire selection was cancelled on C.B.I. report*. Learned counsel for the applicant submitted that in the instant case entire selection has not been cancelled instead of candidature of individual candidates have been cancelled much after their appointments.

9. We have noticed that during the course of scrutiny in interview test, it was detected that the signature and handwriting of the applicant as available in his application form and the specimen handwriting provided by him do not tally with that on the photo bearing attendance certificate of the written examination. The candidate was therefore suspected to have procured impersonation in the written examination which was subsequently confirmed by GEQD, Shimla. Therefore, the candidature of the applicant for the recruitment of Inspectors of CE/IT

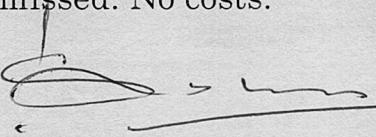
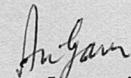
etc, 1996 was cancelled after giving show cause notice. It is seen from the record that after giving opportunity to the applicant he was debarred from appearing in all future examinations of the Commission for a period of three years. Principle of natural justice has not at all been violated in the instant case. The applicant has given proper reply to the show cause notice, and after considering his reply the cancellation order canceling the candidature of the applicant was passed. In the instant case the applicant was suspected to have procured impersonation in written examination and as such all relevant papers relating to him in original was referred to Government Examiner of Questioned Document, Bureau of Police Research & Development, Ministry of Home Affairs, Government of India, Shimla, who found the applicant guilty of impersonation. Learned counsel for the respondents has also placed reliance on the decision rendered by Hon'ble Supreme Court in **Criminal Appeal No.202/2001 decided on 12.11.2002- Alamgir Vs. State (NCT) Delhi and Murari Lal Vs. State of M.P.** reported in AIR 1980SC and submitted that in the case of Murari Lal (supra), the Apex Court has observed that the science of identification of handwriting is not so perfect and the risk is therefore, higher. In the Criminal Appeal No.202 of 2001 (referred to above) Hon'ble Apex Court has held as under:-

“Needless to record that the science of identification of handwriting have attained more or less a state of perfection and the risk of an incorrect opinion is practically non-existent.”

✓

10. Learned counsel for the respondents has also placed reliance on the decision of Hon'ble Supreme Court reported in **AIR 1996 SC 2052**: and submitted that *in a case of malpractice in examination no notice or opportunity is required to be given to a candidate*. Learned counsel for the respondents would contend that in view of the decisions rendered by Apex Court reported in **2009 (13) SCC 600**: held that in case of malpractice during the course of examination. It is settled that need for opportunity/hearing is obviated in the event of fraud on Constitution.

11. Having given our thoughtful consideration to the pleas advanced by the parties counsel, we are satisfied that the applicant was rightly suspected to have procured impersonation in the written examination and this fact was subsequently confirmed by GEQD, Shimla. We find no illegality in the impugned order. The Original Application is, accordingly, dismissed. No costs.


Member-A
Member-J

Sushil