IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(ALLAHABAD BENCH) ALLAHABAD.

O.A. NO. 376 OF 1992
~~T.A. NO.~~

Date of decision 9.2.93

S/C Dixit
~~Tushar Kant Mishra~~ ..... Petitioner

..... Advocate for the petitioner

Versus

U.O.I & Ors ..... Respondent

..... Advocate for the Respondents

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CORAM :-

The Hon'ble Mr. Justice U.C. Srivastava, V.C.

The Hon'ble Mr. K. Obayya, A.M.

1. Whether Reporters of local papers may be allowed to see the judgment N
2. To be referred to the Reporter or not ? N
3. Whether their Lordships wish to see the fair copy of the judgment ? N
4. Whether to be circulated to all other Benches ? N

Signature

NAQVI/

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Original Application No: 375 of 1992

S.K.Dixit ..... Applicants.

Versus

Union of India & others. ..... Respondents.

WITH

Original Application No: 376 of 1992

P.K.Dubey ..... Applicants.

Versus

Union of India & ors. ..... Respondents.

WITH

Original Application No: 460 of 1992

M.K.Vyas ..... Applicants.

Versus

Union of India & others ..... Respondents.

WITH

Original Application No: 461 of 1992

~~V.K.Katre~~ U.K. Katre Ar ..... Applicants.

Versus

Union of India & others ..... Respondents

WITH

Original Application No: 462 of 1992

O.P.Kushwaha ..... Applicants.

Versus

Union of India & others ..... Respondents.

WITH

Original Application No: 463 of 1992

A.K.Srivastava ..... Applicants.

Versus

Union of India & others ..... Respondents.

WITH

Original Application No: 464 of 1992

B.V.Galvalkar ..... Applicants.

Versus

Union of India & others ..... Respondents.

WITH

Original Application No: 465 of 1992

Smt. H.L.Khalri ..... Applicants.

Versus

Union of India & others ..... Respondents.

WITH

Original Application No: 466 of 1992

Harish Kumar ..... Applicants.

Versus

Union of India & others ..... Respondents.

WITH

Correction made as per order passed in MP No. 531/93 to-day. AR 31-5-93

Original Application No; 467 of 1992

S.K.Shukla ..... Applicants.

Versus

Union of India & others ..... Respondents.

WITH

Original Application No: 468 of 1992

Surendra Kumar ..... Applicants.

Versus

Union of India & others ..... Respondents.

WITH

Original Application No: 469 of 1992

O.B.Magha ..... Applicants.

Versus

Union of India & others ..... Respondents.

WITH

Original Application NO: 470 of 1992

A.B.Khanwalker ..... Applicants.

Versus

Union of India & others ..... Respondents.

WITH

Original Application No: 471 of 1992

B.K.Bhatta ..... Applicants.

Versus

Union of India & others ..... Respondents.

WITH

Original Application No: 472 of 1992

B.R.Singh ..... Applicants.

Versus

Union of India & others ..... Respondents.

WITH

Original Application No: 473 if 1992

R.P.Gupta ..... Applicants.

Versus

Union of India & others ..... Respondents

WITH

Original Application No: 474 of 1992

R.K.Tewari ..... Applicants.

Versus

Union of India & others ..... Respondents

WITH

Original Application No: 374 of 1992

T.K.Mishra ..... Applicants.

Versus

Union of India & others ..... Respondents

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. K.Obayya, Member-A

(By Hon'ble Mr. Justice, U.C.Srivastava, V.C.)

Shri C.P.Srivastava has put in appearance in this case and has prayed for disposal of the case. The learned counsel for the respondents Shri P.Mathur prays for time to file Counter Affidavit. It is not necessary to grant time for the same as similar matter has been disposed of by the Bombay Bench and as well as Allahabad Bench. Therefore, the prayer of the learned counsel for the respondents is refused and the case is being decided by hearing the counsels for the parties.

2. In this case, after hearing, we are of the opinion that,the judgement which is delivered at Bombay and which has been followed here at Allahabad will hold good. The applicant appeared in a written test of Office Clerk in response to an advertisement issued by the Railway Service Commission, Bombay. The examination took place at various centres, the applicant was declared successful in the written test and called for interview. The applicant was declared successful in the selection for the post of Office Clerk. The Railway service Commission Bombay informed the applicant that his name has been sent to the Central Railways for appointment as Office Clerk. After waiting for a considerable period when the applicant did not get appointment, the applicant

approached the authorities and was told that certain enquiries in the irregularities which took place are going on and he should wait for some time more. Lateron, a fresh list was published on 21.12.1986 in the Indian Express - and the name of the applicant did not figure in the list. He represented against the same, but after failing to get any response a legal notice was sent and thereafter this application was filed before this Tribunal with a prayer that the respondents may be directed to offer appointment to him on the post of Office Clerk or upon any other equivallent post on the basis of his result as declared by the Railway service commission.

3. In the written statement filed by the respondents it has been stated that the cause of action arose and examination was conducted by the Railway Recruitment Board, Bombay and as such in no case the present petition is cognizable by the administration. In the vigilance enquiry certain tempering were found with the result the applicant's name was dropped and that's why, he was not given appointment. In case, his appointment would have been given, a communication would have been made. Undoubtedly, ~~xxxxxx~~ because the person has passed the examination, he or she, as the case may be, and the result declared then the applicant should not have been dropped without any valid reason. If there was some foul play in the inclusion of his name, obviously, the applicant was to be given an opportunity or he should have been apprised of the necessary facts to enable him to submit reply and meet anything which was agsinst him. But on the basis of the Vigilance Enquiry,

the applicant should not have been deprived from the appointment in which he became entitled against one of the vacancies which was advertised. No person should be deprived of his rights which accrued or which necessarily will accrue on account of the foul play by the authorities unless he is not guilty or he was not given an opportunity of hearing. Accordingly, the application is allowed and the respondents are directed to held an enquiry into the matter associating the applicant with the same and in case no foul play on his part is found the applicant should not have been deprived of his appointment because someone has been found guilty. The enquiry should be completed within three months from the date of communication of this order. In case, the entire examination has been cancelled and none of those who appeared in the examination got the appointment then the applicant will have no case of his appointment. But in case, some appointments have been made and every case has to be decided on merits as indicated above, the enquiry about the applicant's case may be made within three months from the date of communication of this order. In case, some of the persons are required to appear in Viva-Voce test and their written examination is accepted, but has not been cancelled they may appear in the Viva-Voce examination. This is a part of the selection itself and incase they succeed their result may be declared and they may be given appointment accordingly. The application stands disposed with these directions. No order as to costs.

..... Contd/- 4

Copy of the judgement shall be placed on every file.

Member-A

Vice-Chairman

Allahabad Dated: 9.2.1993

(JW)