

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 5th day of June, 2002.

Original Application No. 520 of 1999.

CORAM :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Maj. Gen. K.K. Srivastava, A.M.

Jai Shankar Lal Srivastava a/a 25 years
S/o Sri Mohan Lal Srivastava R/o Vill. Telahri
P.O Madhu Makhiyan, P.S- Baragon, Distt. Varanasi.

.....Applicant

Counsel for the applicant :- Sri Sudhir Agarwal
Sri S.K. Mishra

V E R S U S

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

.....Respondents

Counsel for the respondents :- Sri Prashant Mathur

O R D E R (Oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

By this O.A under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the order dated 19.02.1999 (annexure A- 1). He has also prayed that direction be issued to respondents to issue appointment letter on basis of selection for recruitment of clerks of 1996 examination, the result of which was declared on 28th March/3rd April 1998 in Employment News.



2. The facts in short are that the applicant in pursuance of advertisement dated 27th April/3rd May, 1996, for recruitment of clerks for various departments, made application. Written test was held on 22.09.1996 in which applicant appeared. Typing test took place and the result was declared on 28th March/3rd April, 1998 in Employment News in which the applicant was found successful. The applicant was however, served a show cause notice on 21.01.1999 (annexure A- 6). The allegation in the notice was that it has been detected by the Commission ⁱⁿ That signature and handwriting of Sri Jai Shankar Lal Srivastava, Role Number 2412140, as available in his application form and the specimen handwriting provided by him do not tally with ~~that in~~ ^u the script of written examination. Notice also provided that case was referred to the Government Examiner of Bureau of Police Research and Development, Govt. of India. The findings of which have been confirmed that the candidate ^{had} ~~was~~ procured ^{the result by} impersonation in the written examination. The applicant submitted his reply in which the applicant demanded the hand-writing expert's report but the report was not given to the applicant and the impugned order dated 19.02.1999 (annexure A- 1) was passed cancelling his candidature, aggrieved by which the applicant has approached this Tribunal.

3. The learned counsel for the applicant submitted that the report of the handwriting expert obtained from Bureau of Police Research and Development is the basis of passing the order against the applicant which was mentioned in the show-cause notice also, but the copy of this report was not given to the applicant though he demanded the same while filing explanation. As the report was not given to the applicant, the enquiry is vitiated as the



applicant has been deprived of his defence which could be available to him by providing report as laid down by the Hon'ble Supreme Court in K. Vijaya Lakshami Vs. U.O.I and others AIR (1998) SC 2961.

4. Learned counsel for the respondents on the other hand has submitted that no prejudice has been caused ~~against~~^{to} the applicant by not supplying the report of handwriting expert. The fact that some body^{else} appeared in the written test has been fully established and no interference is called for by this Tribunal.

5. We have carefully considered the submissions of learned counsel for the parties. However, in our opinion, the applicant is entitled for relief as he was not supplied the material documents[^] which formed basis of passing the impugned order. The opinion of handwriting expert from Bureau of Police Research and Development was relied on by the respondents for passing the order which was also mentioned in the show-cause notice. The applicant requested for supplying the copy of this report but it was not supplied to him and the impugned order was passed. The order does not say any thing as to why this report could not given to the applicant. In the circumstances, the defence of the applicant[^] ~~is~~^{had been} prejudiced and he is entitled for relief. The case is squarely covered by the judgment of Hon'ble Supreme Court in K. Vijaya Lakshami (Supra).

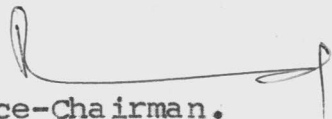
6. Learned counsel for the applicant also submitted that the facts and circumstances mentioned in the explanation submitted by the applicant have also not been considered and the impugned order is not a speaking order. However, it is not necessary to enter in this submission as the applicant is entitled for relief on the first ground ..

7. The O.A is allowed. The Impugned order dated 19.02.1999 (annexure A- 1) is quashed. The respondents may, however, pass a fresh order in accordance with law after giving copy of the report of handwriting expert to the applicant and after providing opportunity to submit his explanation. This exercise shall be completed within period of three months from the date a copy of this order is filed before the respondent No. 2. If the respondent decided otherwise or the result of the enquiry comes in the favour of the applicant, he shall be entitled for appointment order without further delay.

8. There will be no order as to costs.



Member- A.



Vice-Chairman.

/Anand/