

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.1508 of 2000.

Allahabad, this the 11th day of September, 2006.

Hon'ble Mr. Justice Khem Karan, Vice-Chairman
Hon'ble Mr. P.K. Chatterji, Member-A

Kamlesh Kumar,
Aged about 22 years,
Son of Shri Lalai Ram,
Resident of 256, Treveni Nagar,
Naini, District- Allahabad.

....Applicant.

(By Advocate : Shri A.V. Srivastava)

Versus

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

....Respondents.

(By Advocate : Shri A. Mohiley)

O R D E R

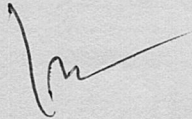
By Hon'ble Mr. Khem Karan, V.C. :

The applicant Kamlesh Kumar appeared at competitive examination held in the year 1997 by Staff Selection Commission for selecting the candidate for appointment as Routine Grade Clerk. There is no dispute that he was declared successful and shown at Sl. No.46, the copy of the result so announced is annexed as Annexure-A-4. It appears that the subsequent to the declaration of the said final result ~~on~~ ^{as} dated , the applicant was served with a memo dated 22.3.2000, copy of which is Annexure-A-5.

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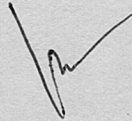
He was directed to appear before the Secretary of the Commission on a particular date. He appeared and vide memo dated 24.7.2000 (Annexure-A-6) was asked to show cause as to why his candidature be not cancelled for impersonation in taking the examination. It was apprehended that some one else appeared at written examination as according to the commission the hand writing used in answering the question, differed from handwriting in his application form etc. This memo dated 24.7.2000 also ^{relates} ~~relates~~ that before issuing it the opinion of handwriting expert was ^{obtained} ~~also pending~~ to ~~say~~ so the applicant demanded certain documents including copy of the handwriting expert, report if any of the invigilator/ examination superintendent vide his application dated 16.8.2000 (Annexure-A-7). He alleged that without furnishing the same documents and without giving him an opportunity to make effective representation or without giving him reasonable opportunity of hearing, the Commission passed the impugned order dated 31.8.2000 cancelling his candidature and de-barred him from appearing ⁱⁿ the examination for a period of three years. His main grievance is that this order dated 31.8.2000 has been passed without giving him reasonable opportunity of hearing.

2. In their reply, the respondents have nowhere stated that the copies of the documents referred in the letter dated 16.8.2000 were supplied to the applicant before the cancellation of the candidature. ^{they say as} ~~if~~ the applicant used unfair means in the examination in question, his candidature was rightly cancelled.

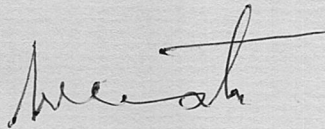


3. Learned counsel for the applicant ^{has} placed reliance on the case of K. Vijayalakshmi Versus Union of India and others, 1998 SSS (L&S), 1124 and ~~submitted~~ ^{so as to say} that non-furnishing of the copy of the report of handwriting expert to the applicant before cancelling his candidature itself is sufficient to quash the impugned order dated 31.8.2000. He has also stated that the applicant was entitled to the copies of the documents/papers/reports mentioned in the letter dated 16.8.2000 as the proposed action was likely to affect his future career. He has also tried to take help from decision dated 30.8.2001 of this Bench in OA No.187/98 (Sunil Kumar Vs. Union of India and others) and decision dated 3.11.2000 in OA No.460/96 (Sanjay Kumar Vs. Union of India and others).

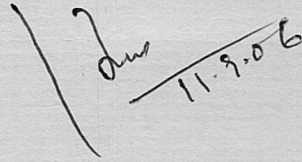
4. Shri A. Mohilay, learned counsel for the respondents submits that the applicant was not entitled to the copy of the handwriting expert or to the copies of the other documents mentioned in the application dated 16.8.2000. We are of the view that the law cited by Shri A.V. Srivastava supports his arguments on the point that non supply of the copy of the report of handwriting expert, before cancelling the candidature of the applicant, vitiated the order dated 31.8.2000 by which the applicant's candidature was cancelled and he was de-barred from appearing in all future examination of the Commission for a period of three years. Therefore, the said order deserves to be quashed but with liberty to the commission to proceed a fresh from the stage of show cause notice and take decision after furnishing the copies of the relevant documents as demanded by letter dated 16.8.2000.



5. The OA is allowed and the order dated 31.8.2000 (Annexure-A-1) is quashed but with liberty to the respondent No.2 to proceed afresh after the stage of the show cause notice and to take a decision in accordance with law, after furnishing the applicant with the copies of the documents /reports/papers as referred to in his application dated 16.8.2000. The decision if any should be taken as expeditiously as possible within a period of four months from the date a certified copy of this order is produced before them. No order as to costs.



Member-A


11.9.06

Vice-Chairman

RKM/