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Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application 1152 of 2003

Allahabad this the 16th day of February 2005

Hon'ble Mr. Justice S.R. Singh, Vice Chairman
Hon'ble Mr. S.C. Chaube, Member (A)

Jaidev Singh Tomar, Aged about 36 years, Son of Shri Ram Narayan Singh, Resident of Village and Post Office Basauli, District Bagpat.

Applicant

By Advocate Shri Vikash Budhwar

Versus

1. Union of India through its Secretary, Ministry of Personnel, Public Grievances and Pensions, North Block, Lodhi Road, New Delhi.
2. Chairman, Staff Selection Commission, 12 C.G.C. Lodhi Road, New Delhi.
3. Regional Director, Staff Selection Commission, Central Region, 8 A-B, Beli Road, Allahabad.

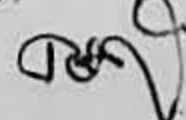
Respondents

By Advocate Shri Ashok Mohiley

ORDER (Oral)

Justice S.R. Singh, Vice Chairman


The respondents issued advertisement inviting application through Employment News dated 25/31-3-2003 for the purpose of recruitment on various posts through Combined Graduate Level (Preliminary Examination), 2003. The posts referred to in the said advertisement were



Assistant Grade (Group 'B' Non Gazetted in the pay scale of Rs.5500-9000) for the group of services/officers like AFHQ, CSS, Railway Board, IFS(B) and posts in Offices like Research Design & Standards Organisation, Central Vigilance Commission, Election Commission etc. ; **Inspectors** of Central Excise/Income Tax, Preventive Officer in Custom Houses, Assistant Enforcement Officers, Examiner (Ordinary Grade) in Custom Houses in the pay scale of Rs.5500-9000 ; **Sub Inspectors in C.B.I.** in the pay scale of Rs.5500-9000 ; and **Sub Inspector(Executive)** in Delhi Police in the same pay scale. The case of the applicant is that he submitted his application by registered post on 01.08.2003. The last date for accepting the application was admittedly 14.08.2003. The application, according to the applicant, was delivered by the Postal department in the Office of Staff Selection Commission on 14.08.2003. On the other hand, the respondents' case is that though the Postal Authority sorted out the applications but actually delivered the same in the Office of Staff Selection Commission on 19.08.2003 and, therefore, in view of the conditions stipulated in the advertisement, the application preferred by the applicant was rightly not entertained.

2. Pursuant to the interim order passed by the Tribunal on 23.09.2003 the applicant who had already passed the preliminary examination, was permitted to appear in the Main Examination held in September, 2003. Pursuant to the stay order, the interview of the applicant was also held and he was also subjected to physical test but, the result has not yet been declared.

3. The question that requires for consideration is firstly whether the application form of the applicant for the main examination was received in the Office of Staff Selection Commission on 14.08.2003, as alleged by the applicant, and secondly, in case application was not received in the Office of Staff Selection Commission on the last date i.e. 14.08.2003 whether the applicant can be held liable for delay on the part of the Postal Authorities.



4. Shri Vikash Budhwar, learned counsel appearing for the applicant has placed reliance on the Certificate issued by the Postal Authorities, a copy of which has been annexed as annexureA-8 to the O.A., showing that the registered letter no.315 had been delivered to the Office of Staff Selection Commission, Allahabad on 14.08.2003. On the other hand, Shri Ashok Mohiley has placed reliance on annexureS.C.A.-1, which according to him is a list prepared by the Postal Authorities of documents delivered at Staff Selection Commission, Allahabad. Heading of the said document is "S.S.C. Allahabad dated 14.08.2003". Shri Ashok Mohiley, however, submits that the said document was received on 19.8.2003. We are unable to accept the submissions made by Shri Ashok Mohiley for the reason that there is obvious over writing just above and beneath the signature of the officials who received the document. The figure '14' appears to have been changed by figure '19'. In any case, in view of the Division Bench decision of Hon'ble High Court in **Shashi Bhushan Kumar Vs. U.P. Higher Education Services Commission and another** 2000 (4) E.S.C. 2483 (Alld.), the Staff Selection Commission cannot blame the applicant for the fault of its agent namely the Post Office. In **Commissioner of Income Tax, Bombay South, Bombay Vs. M/s Ogale Glass Works Ltd. A.I.R. 1954 S.C. 429**, a question arose as to whether the Post Office would be the agent of the addressee in a case where the cheque was sent by post on the request of the creditor. The Supreme Court has held as under:-

"There can be no doubt that as between the sender and the address it is the request of the addressee that the cheque be sent by post that makes the post office the agent of the address."

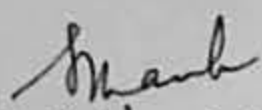
And further:

"After such request the addressee cannot be heard to say that the post office was not his agent... Of course, if there be no such request, express or implied, then the delivery of the letter or the cheque to the Post Office is delivery to the agent of the sender himself."



5. In the letter issued by the Staff Selection Commission to the successful candidates in the preliminary exam., 2003, bearing no.F.No.8/1/2003-CR-Main Exam (GL), Govt. of India, Staff Selection Commission (CR) 8 A-B, Beli Road, Allahabad, dated July 15, 2003, it is clearly stipulated in paragraph no.8 that the application form can be sent by the Post as well as deposited by hand. This would demonstrate beyond doubt that the Post Office was made agent of the Staff Selection Commission. Mere fact that it was provided in the said letter that the Commission will not be responsible for any postal delay would not absolve the Commission of ^{their} ~~its~~ liability for the fault of ^{their} ~~its~~ own agent. In the circumstances, therefore, we are of the considered view that the applicant is entitled to declaration of the result of his examination.

6. Accordingly, the O.A. succeeds and is allowed. The respondents are directed to declare the applicant's result for the Combined Graduate Level (Main Examination), 2003 within a period of 15 days from the date of receipt of a copy of this order. No order as to costs.


Member (A)


Vice Chairman

/M.M./