

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.OA 902 of 1996

Date of order : 22.11.04

Present : Hon'ble Mr.Mukesh Kumar Gupta, Judicial Member
Hon'ble Mr.M.K.Mishra, Administrative Member

TUSHAR KANTI SINHA

VS

UNION OF INDIA & ORS.

For the applicant : None

For the respondents: Mr.B.Mukherjee, counsel

O R D E R (O R A L)

Mukesh Kumar Gupta, J.M.

None appears for the applicant. Mr.B.Mukherjee, ld.counsel appears for the respondents. As none appears for the applicant we take note of Rule 15(1) of the C.A.T. (Procedure) Rules, 1987 and decided to proceed with the case on merits, particularly when this matter is of the year 1996.

2. By the present application the communication dated 8.4.96 (Annexure A/1) is impugned by the applicant whereby he was awarded 'zero' marks in all the papers in which he appeared in the Departmental Examination for Income-Tax Inspector, held in June 1995 at Asansol Centre.

3. According to the applicant he had appeared in the aforesaid examination in June/July 1995 from the Asansol Centre and his Roll No. was B 51493. The results of which were published on 18.1.96 and the applicant was shown to pass in Law Paper-I and II and the paper on other Taxes. When he was about to appear for the remaining papers of Book Keeping and Office Procedure in the Departmental Examination for Inspectors - June, 1996, a show cause notice dated 15.1.96 was issued alleging that he used unfair means in the 1995 Exam. The said show cause notice was contested by the applicant and it was stated that no evidence of adopting unfair means was found against him.

4. When such was the case, the respondents had ^{passed} some orders and the applicant was awarded 'zero' marks in the examination held in June/July 1995. It is stated in the application that such action on

the part of the respondents is highly illegal, arbitrary and violative of principles of natural justice.

5. The respondents in their reply in specific stated that the valuer for 'Other Taxes' papers of the Departmental Examination for ITIs, 1995 in respect of Asansol Centre had pointed out that there was massive use of unfair means in the Examination Hall of the said centre in respect of 'Other Taxes' paper. According to him the answers to question No.4(a), 4(b), 3(b), 3(c), 5(a) and 5(d) had been copied from some help book. 15 candidates, whose Roll Nos. were mentioned by the valuer, had used unfair means. It was further pointed out that some of the questions had been copied by these candidates from a common external material fraudulently smuggled into the Examination Hall or copied from other candidates. The scrutiny of all the answer books of 15 candidates in specific pointed out the use of unfair means and result of 13 candidates was shown as 'withheld' in the remarks column of the result sheets. The result of remaining two candidates including the applicant was inadvertently declared. However, this mistake should not enure any benefit to the applicant. The respondents also denied that there was no incriminating evidence against the applicant, as alleged. Therefore, it was contended that the punishment of awarding 'zero' marks to the applicant as well as 14 other candidates was neither arbitrary, nor illegal and unjustified. On the other hand, show cause notice was issued prior to taking impugned action and hence principle of natural justice were duly observed, contended ld.counsel for the respondents.

6. The applicant filed a rejoinder and contested the statements made by the respondents and reiterated the submissions made by him in the OA.

7. On bestowing our careful consideration to the facts mentioned hereinabove and hearing the ld.counsel for the respondents, we find that the principles of natural justice had been duly observed. We also find that the impugned communication dated 8.4.96 is a detailed and analytical order and the submissions made by him vide reply dated

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6.3.96 were duly taken cognizence of before passing the said impugned order.

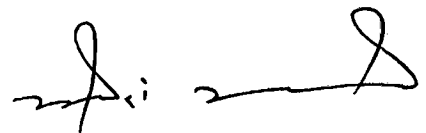
In view of the above, particularly when allegations of unfair means had been denied by the applicant, as stated by the respondents in case of 15 candidates, we find that there is no scope to interfere with the said impugned communication.

8. Accordingly, the application is bereft of any merit and is dismissed. No order as to costs.



MEMBER(A)

in



MEMBER(J)