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CENTRAL ADMINISTRATIVE TRIBUNAL, ALI AHABAD BENCH  
CIRCUIT BENCH : LUCKNOW.

Registration O.A.No. 29 of 1991 (L)

V.K. Bora ..... Applicant  
Vs.  
Union of India & Others ,... Respondents

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

Hon'ble Mr. A.B. Gorthi, Member(A)

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

Feeling aggrieved by the punishment order dated 14.5.1990 by which the applicant was debarred from appearing in the Departmental Examination for Income-Tax Inspector for two years i.e. 1989 and 1990 under Sub-rules (IX) (b) of the rules for the Departmental Examination for Income-Tax Inspector, the applicant approached this Tribunal. The applicant who is an Inspector <sup>of Income-</sup> ~~Tax Inspector~~ appeared in the Departmental Examination which took place in the year 1988. It appears earlier also some Valuer was there but later on after a complaint the matter was scrutinised and it was held that the applicant had used unfair means that is why he was awarded zero marks in all the papers, in which he appeared in the Departmental Examination. There were 3 papers and the applicant is said to have used unfair means only in one of the 3 papers which is paper of 'Office Procedure' while in the papers of 'Book Keeping' there were no complaint that he had used unfair means.

2. The applicant states that he had not used any unfair means, but as a matter of fact he had answered certain question from Bahri's Guide which is only guide available in the market for the departmental examination and the greater part of the reply is tallied with the said Bahri's Guide book. Prior to taking any action against

against the applicant a show cause notice was issued and his explanation was taken, and after taking his explanation this punishment was awarded. Not only the all applicant but/33 candidates were awarded the punishment who have <sup>been</sup> said to use unfair means. The charge against the applicant was that <sup>his</sup> whose Roll No. is 208 and that of Km Sumita Srivastava's Roll No. is 193 and their seats are close to each other and they have copied out from each other. After scrutiny it was found that there was similarity in the answers of these two candidates in question no.1(a) in about first 30 lines, word to word similarity was / also found in the answer of question no.3(a) and which was considered by the directorate highly improbable

3. On behalf of the applicant learned counsel ~~vehemently~~ contended that the Valuer did not report against him and the Super Valuer on the basis of compliant recorded the particular findings, and the findings were not justified with facts of the records. If the <sup>other</sup> ~~above~~ <sup>is</sup> candidates have copied from the same answer book the in any manner the applicant was not responsible for the same. It was within the domain of jurisdiction for Examination Authority to come to a particular conclusion and it cannot be said that there is no necessity for the Examination Authority or Assessing Authority to come to a particular conclusion. The Authority after taking into consideration and after examining the same came to a particular conclusion. Even though some doubts were expressed and the applicant should have been left free out of the 33 persons and of them are penalised even then it is not a matter in which we can sit into the judgment. It cannot be said on the basis of the material which was available to those investigating into the matter

the conclusion was not possible . As this conclusion was ~~not~~ possible no interference can be made. L

4. Learned counsel for the applicant contended that that the applicant has been unnecessarily<sup>by</sup> penalised and ~~an~~ injustice has been done to the applicant who has been penalised alongwith 33 other candidates. It is also contended that the applicant appeared in the examination held in 1989 but the result of the same was not declared. As the findings against the applicant which is on record is based on the relevant material, it is not possible to interfere into the same. Although we are dismissing the application as we did not find any ground to interfere but it will be open for the department to consider ~~that~~ whether the penalty is sufficient or not. In case the applicant had already barred to appear in the 1989 L examination, the department can reduce the punishment and if he had passed the examination of <sup>1990</sup> ~~1989~~ ~~that~~ <sup>by</sup> they should declare the result and promote the applicant accordingly. No order as to costs.

  
Member (A)

  
Vice-Chairman.

4th Nov., 1991, Lucknow.

(sph)