

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
**PATNA BENCH, PATNA.**

**O.A. No. 782 of 2005**

**Date of order :** 24<sup>th</sup> Jan 2011

**C O R A M**

Hon'ble Mrs. Justice Rekha Kumari, Member [ Judicial ]  
Hon'ble Mr. A.K. Jain, Member [ Administrative ]

Sanjay Prasad, S/o Shri Kameshwar Prasad, r/o Mohalla, Saidpur, P.S. Kadamkuan, District – Patna.

**.... Applicant**

**By Advocate : Shri J.K. Karn**

Vs.

1. The Union of India, through the Secretary, Staff Selection Commission, Room No. 405, Block No. 12, CGO Complex, Lodhi Road, New Delhi.
2. The Under Secretary [ C ] Staff Selection Commission, Block No. 12, CGO Complex, Lodhi Road, New Delhi.
3. The Regional Director[ CR ] Staff Selection Commission, Central Region, Department of Personnel & Training, Ministry of Personnel , Public Grievances & Pension , -8-A-B, Bely Road, Allahabad.
4. The Assistant Director [ Examination ] Staff Selection Commission, Central Region -8-A-B, Bely Road, Allahabad.
5. Shri r. Chandra, Asstt. Govt. Examiner of Questioned Documents, CFSI complex, Sector 36 -A, Chandigarh.

**....Respondents.**

**By Advocate : Shri D. Surendra.**

**O R D E R**

**Justice Rekha Kumari, Member [ J ] :-** The applicant has filed this OA for quashing the order dated 10.08.2005 [ Annexure A/8] issued by the Regional Director [ CR ], Staff Selection Selection, Allahabad, whereby the candidature of the applicant, Sanjay Prasad for recruitment of Clerks 1997 has been cancelled, and he has also been debarred from appearing in any future examination to be conducted by the Commission, and his nomination to Railway Board has been withdrawn. There is also a prayer for restoration of the status of the applicant prior to the issuance of the impugned order.

2. The applicant had applied for Clerks Grade Examination 1997 conducted by Staff Selection Commission [ Commission in short ], Allahabad. He was allotted Roll No. 2032679. He appeared in the written examination on 11.10.1998. On the basis of his result in the written examination and type writing test, he was declared successful. He was nominated to the Railway Board for

issuing the offer of appointment. He was, then, offered temporary appointment as LDC vide letter dated 01.05.2000. He joined the post on the same date.

3. The case of the applicant is that he was, thereafter, served with a memorandum dated 12.10.2000 wherein he was informed that his photograph as available in his attendance sheet portion of the written part of the examination, does not tally with the photo pasted by him in his application form and the attendance sheet portion of the type test of the above examination. It was also informed that the case was referred to the Government Examiner of Questioned documents [ GEQD in short ] , which confirmed that he [ the applicant ] has procured impersonation in the written examination. He was, therefore, directed to explain as to why his candidature for the Clerks Grade Examination 1997 should not be cancelled, and he be debarred from appearing in the Commission's examination.

4. He filed his written reply, denying the allegation, and stating that he was called at the Commission at Allahabad earlier also before joining the duty, and his photographs and signatures were verified and were found in order by the Commission. He also requested therein that his signatures at three stages i.e., at the time of filling of application form, at the time of written examination and at the time of type test be verified once again. The Commission, without considering his reply, cancelled by letter dated 8.11.2000 his candidature for recruitment of Clerks 1997 held on 11.10.1998, and he was debarred from appearing in all the future examination to be conducted by the Commission, and his nomination to the Railway Board , for appointment, was withdrawn. It was also alleged that one Ramu Prasad who is also employed in the Railway Board as Assistant where the applicant was employed, had impersonated him , and that the services of both the persons were terminated.

5. The applicant , hence, filed OA 70 of 2001 before this Tribunal. Ramu Prasad also filed OA 451 of 01 and OA 533 of 01. All the three OA[s] were decided by a common order. As the opinion of the expert on some documents was not complete, the Tribunal referred back the matter to the concerned respondents to have complete opinion of the hand-writing expert, and then after

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giving an opportunity of being heard to the applicants to put their defence, pass a reasoned order. The applicant, then, was directed to appear before the Secretary of the Commission, New Delhi to give his specimen writings / signatures. He appeared and gave fresh specimen signatures, and he was asked that his signatures would be sent to GEQD, Shimla. He was, then, served a show cause notice dated 24.05.2005 [ Annexure A/6] whereby he was supplied with supplementary opinion given by GEQD, Chandigarh, wherein it is stated that the signature of Sanjay Prasad on OMR Answer Sheet [ Q-1/1 ] and hand-writings and signature of Sanjay Prasad's Admission Certificate of written examination [ Q-3 & Q-3/1] have not been written by Sanjay Prasad. He submitted his reply on 21.06.2005 , denying the allegation. His reply was, however, not considered on merit, and respondent No. 3, with biased and prejudiced mind, rejected the case of the applicant.

6. The respondents have contested the case of the applicant. Their case in the written reply, inter alia, is that incidentally in the Establishment Section of the Railway Board, it was detected that the photograph as pasted on the Admission Certificate of the written part of the examination had resemblance with the face of Ramu Prasad, Assistant working in the Railway Board, New Delhi. The railway Board , hence, took up the matter with the Staff Selection Commission, Headquarters, New Delhi. Both the Candidates , then, were asked to appear before the Commission at New Delhi for their specimen signatures and hand-writings. The specimen signatures and handwritings of both the persons were, then, sent to the GEQD, Shimla along with relevant records for verification of photographs , handwritings, signatures available on various answer scripts, application forms and admission certificate portions etc. The GEQD gave his report that the applicant [ Sanjay Prasad ] had procured impersonation in written part of the Clerks Grade Examination 1997 held on 11.10.1998, and that, Ramu Prasad was the person who impersonated Sanjay Prasad. A show cause notice was, hence, issued to the applicant as to why his candidature for Clerks Grade Examination, 1997 should not be cancelled, and why he should not be debarred from appearing in future examination. He submitted his reply, but as the reply

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was not found satisfactory, his candidature was cancelled, and his nomination to the Railway Board was withdrawn, and he was debarred from appearing in all future examinations of the Commission for a period of three years. A show cause notice was also issued to Ramu Prasad, but he did not respond. His candidature was, thus, also cancelled, and his nomination to the Railway Board as Assistant was withdrawn, and he was debarred from appearing in future examination of the commission for three years.

7. The applicant filed OA. The Tribunal by order dated 22.04.2004 remitted back the case and directed the respondents to procure complete opinion of the handwriting expert on the documents Q3 and Q3/1 and then to pass a reasoned order as per procedure of law, after giving an opportunity of hearing to the applicant. In compliance with that order and on the basis of request made by GEQD, Chandigarh, one examination unit of Shimla was shifted to Chandigarh for more standard writings of both the candidates for further examination. The applicant furnished a fresh handwritings and signatures. In spite of several memos sent, Ramu Prasad did not appear. The headquarters of the Commission, after obtaining fresh specimens of the applicant, sent the same to GEQD along with other documents for opinion. The GEQD in supplementary opinion has clearly stated that handwritings and signatures provided by the applicant did not tally with the handwritings and signature of the applicant available on his OMR answer sheet [ Q-1/1] and the writings and signature of the applicant on admission certificate of written examination [ Q- 3 and Q-3/1]. A fresh show cause notice with fresh opinion of GEQD was issued to the applicant vide letter dated 24.5.2005. He submitted his reply dated 21.6.2005. The respondents, after considering his reply and the rule position, observed that the applicant has failed to controvert the opinion of the GEQD, which unequivocally states that the applicant did not take written examination himself but made someone else to appear in the examination on his behalf, and photograph pasted on the admission certificate of written examination does not belong to Sanjay Prasad.

8. The impugned order, hence, is legal, valid and as the allegations

are of serious nature, the candidature of the applicant was rightly cancelled, and he was debarred from appearing in any future examination to be conducted by the commission, and his nomination to the Railway Board was rightly withdrawn.

9. The learned counsel for both the parties were heard.

10. The main thrust of the submission of the learned counsel for the applicant is that there was no adverse report of the invigilator or other officials, and the impugned order has been issued only on the basis of the report of handwritings expert, but the report of handwritings expert is termed as evidence of frailed character, and so must be be corroborated by other evidence, but there is no other corroborative evidence in this case. So, the impugned order is bad in law. In support of his submission, he has relied on the decision of the Hon'ble Supreme Court in the case of State of Maharastra vs. Sukhdeo Singh.

11. The learned counsel for the respondents, on the other hand, referred to the decision of Allahabad Bench of CAT in the case of Shailendra Kumar Verma vs. Union of India & Ors, and submitted that in that case, the bench has held that strict adherence to the provisions of Evidence Act is not required in service law, and it is not necessary that the opinion of the expert must be corroborated by circumstantial evidence. He further referred to the decision of Hon'ble Supreme Court in the case of Murari Lal vs. State of M.P., AIR 1980 SC 531, and submitted that it has been held therein that there is no such rule of law nor any rule of prudence that the opinion evidence of a handwritings expert must not be acted upon unless corroborated. He further submitted that the opinions of the handwriting expert in this case have been corroborated by the opinion of expert on photographs, and so there is no doubt that the applicant had procured another person to write on his behalf in the written examination. He also contended that as the applicant had procured impersonation, as per notice of the examination, his candidature was cancelled, and he was debarred from appearing in future examination.

12. It is not denied that handwriting experts had opined that the handwritings and signatures of the applicant on the written portion of the examination were not of the applicant.

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13. On a perusal of the opinion of the experts dated 17.7.2000 [ Annexure R/1], it appears that they had found that the writings and signatures of the applicant on the attendance sheet of the type test tallied with the admitted specimen signatures. The opinion [ report ] , however, shows that the experts could not express opinion as regards writings [ Q/1] and signatures [ Q -1/2] and writings [ Q-3 & Q 1/3] on the written part of the examination [ annexed with Annexure A/6]. As no opinion by the expert was given on the questioned documents marked as Annexure Q-3 i.e., writings on the admit card of written part of the examination of the applicant on which the alleged photograph of Ramu Prasad is pasted, and the questioned signatures of applicant [ Q-3/1] on the same admit card, this Tribunal in OA 451 of 2001 had given direction to have opinion of the expert on these documents also. The opinion of handwritings expert dated 10.01.2005 [ annexed with Annexure A/6] on this is as follows:-

*" The person who wrote the red enclosed writings and signatures stamped and marked S1 to S11, S22 to S30, S39 to S75 , A1, A2 and A4 to A42 did not write the red enclosed writings and signatures similarly stamped and marked Q 1/1, Q 3 and Q 3/1.*

14. The documents A1 and A2 are the admitted writings and signatures on the application form [ vide Annexure R/1]. A4 to A42 are also admitted writings and signatures of the applicant on different documents [ vide Annexure R/15]. The documents S1 to S11, S22 to S30 and S39 to S75 are specimen signatures [ appear to have been taken after the order of this Tribunal in earlier OA ] [ vide Annexures R/13, R/14 ].

15. It, therefore, appears from the opinion of the expert that the writings [ Q3] on the admit card of the written portion of the examination of the applicant and the signatures [ Q3/1 ] and [ Q 1/1] on that card were not written by the applicant.

16. The opinion dated 17.07.2000 [ Annexure R/1] of the GEQD further shows that they had examined the photograph marked Q3/2 i.e., which was pasted with the written part of the examination of the applicant [ annexed with Annexure A/6 and also with Annexure R/5], but it did not tally with photograph [ Q 4/2] i.e., photograph of the applicant on the type writing portion and K/1 i.e

on the X application form [ annexed with Annexure R/5 ]. Therefore, according to the experts, the photograph pasted on the written part of the examination of the applicant was different from photograph of the applicant pasted on the type test portion and on the main Application form. So, according to the opinions of the experts, not only that writings and signature on the examination portion of the admit card of the applicant did not tally with admitted writings and signatures of the applicant and his writings and signatures on the Application form but the photograph on the examination portion of the admit card did not tally with admitted photograph of the applicant on the type test portion of the admit card and on the Application form. Hence, even if it be assumed that the opinion of the handwriting expert is not perfect and requires corroboration, in this case, the opinion of the experts in respect of writings finds corroboration by their opinions on photographs.

17. Besides this, on bare perusal of this photographs, any lay man can say that the photograph on the written examination part of the admit card does not tally with photographs on the type writing test part and the Application form and that the photograph on the type writing test and application form are of the same person, and the photograph on admit card [ written examination] is of different person. It appears from the representation of the applicant dated 27.10.2000 [ Annexure A/3] that he was required to submit photograph from the same negative. He has also admitted therein that the photograph pasted in the Application form and submitted at the time of type test is of one type and photograph which was pasted at the written examination test is of another type. But his explanation is as follows:-

*" At the time of preparation and filling up form, I pasted the available photograph for appearing in the written examination, I submitted photograph which was prepared by foot-path type studio when I was confirmed by the Commission that I have been selected for typing test, and I have to submit the same photograph as pasted in the application form, then I searched the negative of that photograph and got the photograph from that negative."*

18.

So, when from the same negative, all the three photographs were

taken, there is no reason why there would be difference in appearance. Then, according to the explanation, the difference, if any, can occur only in photograph last taken, i.e., the photograph pasted in the type test examination admit card, but this is not the case here. The photographs also clearly show that the photograph pasted on the written test examination card is of person different from the other two photographs, which are of the same person [ applicant]. Hence, there can be no doubt that the applicant himself did not write the written examination portion , and someone else whose photograph is pasted in the written examination admit card , had appeared in the written examination on his behalf.


19. This being so, there is no illegality if the candidature of the applicant has been cancelled, and he has been debarred from appearing in future examinations of the Commission, and his nomination for appointment has been withdrawn.

20. There appears no merit in the OA. The OA is, therefore, dismissed.

No order as to costs.



[ A.K. Jain ] M [ A ]



[ Rekha Kumari ] M [ J ]

/cbs/