

CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH

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Pronounced on: 31.7.2015.
Reserved on: 29.07.2015

OA. No. 060/01059/2014

**CORAM: HON'BLE MRS.RAJWANT SANDHU, MEMBER(A)
HON'BLE DR. BRAHM A.AGRAWAL, MEMBER(J)**

Naveen, son of Sh. Chand Ram, resident of village and P.O. Bhambhewa, Tehsil Saffidon and District Jind.

.....Applicant

BY ADVOCATE: SH. JASBIR MOR

VERSUS

1. Union of India through Secretary to Government of India, Staff Selection Commission, Department of Personnel and Training, New Delhi.
2. Staff Selection Commission, Department of Personnel & Training, North Western Regional Office, Block C, Kendriya Sadan, Sector 9-A, Ground Floor, Chandigarh through its Deputy Regional Director.
3. Deputy Regional Director, Staff Selection Commission, Department of Personnel and Training, North Western Regional Office, Kendriya Sadan, Sector 9-A, Ground Floor, Chandigarh.

.....Respondents

BY ADVOCATE: SH. D.R. SHARMA

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ORDER

HON'BLE MRS. RAJWANT SANDHU, MEMBER(A):-

1. This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

- "(i) Quash the impugned order dated 07.11.2013 passed by respondents being illegal, arbitrary, unjust and unfair whereby the candidature of the applicant has been cancelled for Combined Graduate Level Examination, 2012 and he was debarred for a period of three years w.e.f. 16.9.2012 from appearing in Commission's Examination without appreciating the facts and circumstances of the case.
- (ii) Direct the respondents to include the name of the applicant in the list of successful candidates for Combined Graduate Level Examination, 2012 and appointed him on the post as per the rank secured by the applicant alongwith the successful candidates."

2. The background of the matter is that the Staff Selection Commission issued advertisement for Combined Graduate Level Examination, 2012 and the applicant applied in response to the same and was issued Roll No. 1601002840. He cleared the Tier I examination and appeared for the Tier II examination on 16.9.2012. Thereafter, he was called for the Data Entry Speed Test (DEST) at Chandigarh on 15.11.2012. When the names of the successful candidates were declared, the applicant's result was withheld. Later, he received Show Cause Notice dated 4.6.2013 (Annexure A-5) as to why his candidature for

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CGLE 2012 should not be cancelled and he be not debarred for five years from appearing in the Commission's examinations due to indulgence in unfair means. The applicant submitted his reply to the Show Cause Notice on 17.6.2013 (Annexure A-6) but the SSC rejected the same through order dated 7.11.2013 (Annexure A-7). The applicant then approached the CAT Chandigarh Bench, through OA No. 060/00027/2014 with his grievance and the matter was decided vide order dated 1.4.2014 (Annexure A-9) directing the Staff Selection Commission to give fresh Show Cause Notice to the applicants giving full details of the alleged malpractices and the detailed modus operandi adopted by the applicant in coming to the conclusion and after considering the representations submitted, the final orders may be passed in the case. Thereafter, the respondents issued a fresh Show Cause Notice on 6.8.2014 (Annexure A-10) and the applicant submitted a detailed reply to the same on 21.8.2014 (Annexure A-11), but the matter had not been decided. Hence this OA.

3. In the grounds for relief, it has interalia been stated as follows:-

(i) That in the Show Cause Notice (Annexure A-5) as well as in the impugned order dated 7.11.2013 (Annexure A-7), the Commission has stated that incontrovertible and reliable evidence has emerged during such scrutiny and analysis that the applicant has resorted to

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copying the papers in association with other candidates who also appeared in the same examination. However, there is no indication given by the respondents with regard to such reliable evidence that has emerged. In the absence of any substantial material, it is not possible to accept the plea of respondents that the applicant was copying the papers in association with other candidate.

(ii) That according to the Scheme of Examination, there is an elaborate system that takes care of any possibility of misuse of mobile phone and therefore, there is no question of using any electronic gadgets. The respondent had reached to a wrong conclusion on the basis that some answers of the applicant match with the answers of one Salwshish & one Amit Kumar, therefore, the applicant had resorted to malpractice/unfair means in the said papers. There is a watchdog in the examination and every care is taken by the respondents to stop the unfair means in the examination. It is not believable that the applicant asked the answers of the questions from other candidates during the examination and use the unfair means in such strictness of the respondents. The present petition has secured 102 marks in the Paper-1 and 123.25 marks in Paper-2 of the Tier-II. As per the information of the applicant, said Salwshish has secured 110 marks in the Paper-1 and 131 marks in Paper 2 of the Tier II. Said Amit Kumar has secured 113.50 marks in the Paper-1 and 135.50 marks in Paper 2 of the Tier II. There is much more difference in the marks secured by the present applicant and these two candidates. The contention of the applicant also got strength when there is the negative marking in the examination. In the present examination, there is the procedure of deducting 0.25 marks for every wrong question.

(iii) The reason for debarment is being mentioned as "Impersonation" whereas in its earlier Show Cause Notice dated 4.6.2013 (Annexure A-6) and in the impugned order dated 07.11.2013 (Annexure A-8), the reason for debarment of the applicant has been mentioned as malpractice by the applicant i.e. copying with one Salwshish and one Amit Kumar. However, now the Commission has alleged the case of impersonation against the present applicant. On examination day, the applicant neither has adopted any malpractice during Tier I or Tier II nor the allegation of the impersonation against the applicant is true, rather it is a false and

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baseless one. As the story of impersonation as alleged by the respondent commission against the present applicant can easily be verified from the thumb impression and the signature put by the candidate like applicant on the answer sheet as well as attendance sheet and also from the videography during the examination hall. All the material is already available with the respondent commission. However, no such matter allegedly found against the applicant in support of the impersonation committed by the applicant has been provided or ever disclosed by the respondent commission.

4. In the written statement filed on behalf of the respondents, it has been stated that the applicant has made application against order dated 07.11.2013 and Show Cause Notice dated 06.08.2014 passed by the respondents. Order dated 07.11.2013 of respondents has already been set aside by the Tribunal vide order dated 01.04.2014. No final order has been passed on Show Cause Notice dated 06.08.2014 of the respondents. No cause of action has arisen to the applicant for seeking indulgence of the court regarding these two communications and the OA is premature.

5. Rejoinder has been filed on behalf of the applicant.

6. When the matter came up for consideration on 29.7.2015, learned counsel for the respondents was asked as to whether final order had been passed on Show Cause Notice dated 06.08.2014. He stated that this has not been done since the applicant had meanwhile approached the Tribunal by way of this OA. *u* _____

7. In this view of the matter, we observe that it is not feasible to decide the claim of the applicant in the present OA without the SSC having taken a final decision on the Show Cause Notice dated 06.08.2014 which has been replied to by the applicant on 21.08.2014. The respondents No. 2 & 3 are directed to pass a final order in this matter within a period of two weeks from the date of a certified copy of this order being served upon them and the applicant, if still aggrieved, will have the liberty to file a fresh OA in support of his claim.

8. OA is disposed of accordingly. No costs.

Rajwant Sandhu
(RAJWANT SANDHU)
MEMBER(A)

B. A. Agarwal
(DR. BRAHM A. AGRAWAL)
MEMBER(J)

Dated: 31.7.2015

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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH,
CHANDIGARH .**

18.O.A. No.060/01059/2014

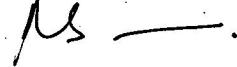
(NAVEEN SINGH VS. UOI)

22.04.2015

Present: Mr. Jasbir Mor, counsel for the applicant.
Mr. D.R.Sharma, counsel for the respondents.

1. Learned counsel for the applicant states that he will be filing rejoinder in the Registry in the course of the day and a copy of the same has been provided to the counsel opposite.
2. Since pleadings in the matter are complete, list the matter for **final arguments on 13.05.2015.**


(DR. BRAHM A. AGRAWAL)
MEMBER (J)


(RAJWANT SANDHU)
MEMBER (A)

'sv'

Rej. filed
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