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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/00414/2014

**Order Reserved on 24.03.2015
Pronounced on 26-3-2015**

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

...
Sukhbir Singh S/o Sh. Debi Singh, R/o 1472, Sector 1, HUDA, Rohtak, Haryana, Roll No.180150.

... Applicant

Versus

1. Union of India through Secretary, Department of Personnel and Training, New Delhi.
2. Staff Selection Commission, Block No.12, CGO Complex, Lodhi Road, New Delhi through its Chairman.
3. Deputy Regional Director, Staff Selection Commission (NWR), Block-3, Kendriya Sadan, Sector 9, Ground Floor, Chandigarh.

... Respondents

Present: Sh. Narinder Kumar, proxy for Sh. Sourabh Goel, counsel for the applicant.
Sh. Deepak Agnihotri, counsel for respondent no.1.
Sh. D.R. Sharma, counsel for respondents no.2 and 3.

ORDER

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

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

"8 (i) Issuance of appropriate order for quashing of impugned order dated 15.07.2013, Annexure A-15 vide which the candidature of the applicant has wrongly been cancelled and he has been debarred for a period of 03 years from

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appearing in the examination to be conducted by the commission.

(ii) Issuance of appropriate order or directions to the respondents to declare final result of the applicant and consider his case for appointment as per merit in Common Graduate Level Examination, 2011."

2. Background of the matter is that the applicant applied in response to advertisement notice dated 19.03.2011 (Annexure A-1) and appeared in the Tier-I and Tier-II of the Combined Graduate Level Examination conducted in June, 2011 and September 2011. The applicant secured 384.50 marks in this examination (Annexure A-2) while the cut off for the General Category was 354.75. The applicant also appeared in interview on 29.10.2011 but before result of the examination was declared, he received order dated 27.02.2012 (Annexure A-5) debarring him from appearing in any examination to be conducted by respondent no.2 for a period of 5 years. The applicant filed OA No.306 of 2012 and the impugned order dated 27.02.2012 was quashed by the Tribunal's order dated 28.05.2012 (Annexure A-6). The respondents issued show cause notice dated 07.06.2012 (Annexure A-7) and the applicant submitted his detailed reply on 13.06.2012 (Annexure A-8). Since even after passage of more than 2 months, the respondents did not declare result of the applicant and on 07.08.2012 the respondents cancelled the candidature of the applicant (Annexure A-9), he filed O.A. No.846 of 2012.

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The show cause notice dated 7.06.2012 (Annexure A-7) and order dated 07.08.2012 (Annexure A-9) were quashed by the Tribunal vide order dated 17.10.2012 (Annexure A-10). Against the order dated 17.10.2012, the respondents filed CWP No.24380 of 2012 and the Hon'ble High Court vide order dated 10.12.2012 (Annexure A-11) dismissed the writ petition. The applicant then filed O.A. No.1417 of 2012 and the same was dismissed vide order dated 14.02.2013 (Annexure A-13). The applicant then approached Hon'ble High Court by filing cWP No.7526 of 2013. During the pendency of writ petition the respondents once again vide order dated 15.07.2013 cancelled candidature of the applicant and debarred him from appearing in any examination to be conducted by the SSC for a period of 3 years (Annexure A-15). The writ petition filed by the applicant was dismissed on 30.09.2013.

3. In the grounds for relief it has inter alia been stated as follows:

- i. The applicant is a meritorious candidate as he has secured good marks in Tier I and Tier II written examination and also performed well in the interview.
- ii. The CBI could not find any material against the applicant but the respondents for the reasons best known to them and for undue consideration passed impugned order dated 15.07.2013 (Annexure A-15).
- iii. The applicant has been punished merely on the basis of surmises and conjectures while there is no material against the applicant. The action of the respondents in cancelling candidature of the applicant and in not declaring his result

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and not considering him for appointment as per his merit is arbitrary, illegal and unconstitutional.

4. In the written statement filed on behalf of the respondents it has been stated that the applicant filed OA No.1417 of 2012 in CAT and the same was dismissed. Then he challenged the order of CAT by filing CWP No.7526 of 2013 in High Court of Punjab and Haryana and the same was dismissed on 30.09.2012. The Hon'ble High Court agreed with the scientific Post Examination Analysis adopted by the Staff Selection Commission for detecting the malpractices committed by the candidates. The Commission carefully considered the CBI status report and viewed that CBI had not registered a regular criminal case but that does not in any way nullify the scientific Post Examination Analysis, which has conclusively proved that the applicant had indulged in unfair practices. The Hon'ble Supreme Court had in Karnataka Public Service Commission & Ors. Vs. B.M. Shankar and Others AIR 1992, Supreme Court 952 held that **"we do not find any ground for interference and observed power and authority of the Commission to hold examination, regulate its working and functioning, take action against erring candidates guilty of misconduct are all provided for by the rules and instructions issued in exercise of power conferred by the statutes."** The involvement of the applicant in manipulative practices in the concerned examination had been conclusively proved though analysis carried out by the SSC and as

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per the Notice of Examination his candidature had been cancelled. In a similar case in OA No.99 of 2012 to OA No.104 of 2012 titled as Gautam Sarkar, Biswajit Bala, Suman Biswas, Sudipta Biswas, Suman Das, Sujit Das respectively Vs. Staff Selection Commission, the C.A.T. Kolkata Bench had upheld such cancellation of candidature.

5. Arguments advanced by learned counsel for the parties were heard when learned counsel for the applicant narrated the background of the matter and stated that respondents had not followed principle of natural justice while cancelling candidature of the applicant.

He had not been given adequate opportunity of being heard and there was no material with the respondents to show that the applicant had indulged in unfair practice.

6. Learned counsel for the respondents stated that the claim for relief made in the present OA had been decided against the applicant in an identical case relating to one Sh. Ravinder Dahiya in O.A. No.060/00228/2014. Sh. Ravinder Dahiya and the applicant appeared in the CGLE, 2011 examination sitting in the same room and it was clear from the Post Examination Analysis that the applicant and Sh. Ravinder Dahiya had indulged in unfair practice. The impugned order dated

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15.07.2013 clarified the matter adequately and there was no ground for interfering in the same.

7. We have given our careful consideration to the matter. From the material on record it is clear that the case of Sh. Ravinder Dahiya and the present applicant are similar. Both these persons have been found to have indulged in mal-practice as per the Post Examination Analysis. The case of Sh. Ravinder Dahiya has been rejected in OA No.060/00228/2014 vide order dated 17.10.2014. Hence keeping in view the decision in that case, the present OA is also rejected.

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

Rs
(RAJWANT SANDHU)
MEMBER (A)

Place: Chandigarh.
Dated: 26/3/2015