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**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

...  
**ORIGINAL APPLICATION NO.060/00228/2014 &  
O.A. No.060/00229/2014**

**Order Reserved on 29.9.2014  
Pronounced on 17.10.2014**

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

...  
**O.A. No.060/00228/2014**

Ravinder Dahiya S/o Sh. Ved Pal Dahiya R/o 2434, Sector 2, HUDA,  
Bahadurgarh, Jhajjhar Haryana-124507, Roll No.1801500292



... Applicant

**O.A. No.060/00229/2014**

✓ Lokesh Kumar Son of Sh. Chanderhas R/o V.P.O. Matloda, District Hissar,  
Haryana.

... 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. Sourabh Goel, counsel for the applicant.  
None for respondent No.1.  
Sh. D.R. Sharma, counsel for Respondents No.2 and 3.

*Ms. —*

## ORDER

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

1. Both these OAs have been filed under Section 19 of the Administrative Tribunals Act, 1985, on similar facts and grounds seeking the following relief:

"8 (i) The issuance of appropriate order for quashing of impugned order dated 15.7.2013, 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 appearing in the examination to be conducted by the Commission.

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

and hence are disposed of through a common order. For convenience facts are taken from OA No.060/00228/2014 (Ravinder Dahiya Vs. Union Of India).

2. The background of the matter is that the applicant appeared for Tier-I of written component of the Combined Graduate Level Examination conducted by Staff Selection Commission on 19/26.6.2011. He qualified the same. The applicant then appeared in the Tier II exam held on 3/4.9.2011. The applicant scored 392 marks in Tier I and Tier II combined as per details of marks appended as Annexure A-2 while as per the Commission's website the cut off for General Category was 354.75 marks. The applicant was called for

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interview and appeared in the same on 29.10.2011 and expected that the result would be declared soon. However, the applicant received order dated 27.2.2012 issued by Respondent No.3 stating that the candidature of the applicant in respect of Combined Graduate Level Examination has been cancelled and he was barred from any examination to be conducted by Respondent No.2 for a period of five years (Annexure A-5).

3. Averment has been made in the OA that since order dated 27.2.2012 was passed without affording any opportunity of personal hearing, or providing any material to the applicant, the applicant filed OA No.305/2012 and vide order dated 28.5.2012 (Annexure A-6), the order dated 27.2.2012 was quashed. In the order dated 28.5.2012, the Tribunal observed that if the competent authority was still inclined to proceed against the applicant, it would be incumbent upon them to observe the principles of natural justice and respondents were granted a fortnight's time for taking a conscious decision about proceeding afresh against the applicant and in case such a decision was taken, the respondents were granted another fortnight's time to conclude the proceedings.

4. In pursuance to the order dated 28.5.2012, the respondents issued show cause notice dated 8.6.2012 (Annexure A-7) calling upon the applicant to make written submissions as to why his

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candidature for the examination should not be cancelled and he should not be debarred from any other examination of the Commission. Again no material or details were provided on the basis of which allegation was leveled against the applicant but the applicant submitted detailed reply on 13.6.2012 (Annexure A-8). Even after the passage of more than two months, the respondents did not declare the result of the applicant but on 7.8.2012 vide order Annexure A-9, candidature of the applicant was cancelled and he was debarred from appearing in the examinations to be conducted by SSC for a period of five years.

5. The applicant then filed OA No.846/2012 challenging the show cause notice dated 7.6.2012 (Annexure A-7) and order dated 7.8.2012 (Annexure A-9). Both these orders were quashed by the Tribunal vide order dated 17.10.2012 (Annexure A-10) observing the conceded position that incriminating material never came to be put to the applicant but the respondents were once again granted an opportunity to proceed afresh in the matter. It was also made clear by the Tribunal that liberty to proceed could only be meaningfully utilized if competent authority is in a position to confront the applicant with the factual premise of the findings recorded by the committee of experts for holding that the applicant had indulged in malpractice. The respondents were further directed to act fast and to conclude the relevant exercise within a period of one month from the date of receipt of copy of order.

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However, the respondents neither proceeded afresh nor did they declare final result of the applicant. Against the order dated 17.10.2012 (Annexure A-10) in connected OA, Sahdev Vs. UOI and Others, the respondents filed writ petition No.24380 of 2012 before the jurisdictional High Court but the same was dismissed.

6. Since neither the respondents took any action nor did they show any material to the applicant on the basis of which his candidature was cancelled and he was debarred from appearing in the examinations of the Commission for a period of five years, the applicant filed OA before this Tribunal seeking direction to the respondents to declare his result. The respondents then took the plea that against the order of the High Court dated 10.12.2012 (Annexure A-11), an SLP was proposed to be filed and it was also stated that as a matter of policy, the Commission does not declare result of any candidate whose candidature is cancelled or doubtful unless investigation exonerates the candidate. The Tribunal dismissed OA No.1419/HR/2012 vide order dated 14.2.2013 holding that in case the applicant is aggrieved against inaction of the respondents, the remedy lies elsewhere (Annexure A-13). The applicant then approached jurisdictional High Court by filing CWP No.7670 of 2013, the respondents appeared and apprised the Hon'ble Court that investigation in the matter is pending before the CBI. Vide order dated 23.4.2012, the Investigating Officer of CBI was directed to apprise the

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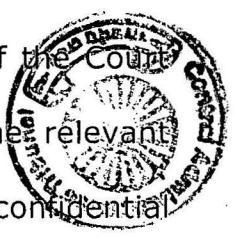
Court regarding outcome/status of the investigation and submit report in a sealed cover. Pursuant to the order dated 23.4.2012 on 2.7.2013, CBI submitted its status report and the Division Bench of the Hon'ble High Court directed the CBI to supply copy of its status report to the respondent Staff Selection Commission and Commission was directed to take a final decision in the matter (Annexure A-14). During the pendency of the Writ Petition, the respondents again vide order dated 15.7.2013, without providing material to the applicant, cancelled candidature of the applicant and debarred him from appearing in any examination to be conducted by SSC for three years (Annexure A-15).

Hence this O.A.

7. In the written statement filed on behalf of the respondents, facts of the matter have not been disputed. It has been stated that involvement of the applicant has been found in using unfair means in the Post Examination Analysis conducted by the expert body. The applicant had been found indulging in malpractice along with one Sukhbir Singh in the Post Examination Analysis and hence no illegal or arbitrary action had been taken by the respondents. A final speaking order was issued on 15.7.2013 giving reasons for cancelling the candidature of the applicant.

8. It is further stated that the Commission causes regular post examination scrutiny and analysis of performance of the candidates

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in objective-type multiple choice question papers with the help of experts, who have proven expertise in such scrutiny and analysis and had caused such scrutiny and analysis to be held in the case of written examination paper in Tier-II of the CGLE, 2011. On the direction of the Tribunal, Shri S.K. Ranjan, Deputy Regional Director, Staff Selection Commission, North-Western Region, Chandigarh, had submitted a sealed envelope containing the relevant materials, for the perusal of the  on 17.10.2012. It was requested that the contents of the relevant material may not be disclosed to the petitioner as it is a very confidential matter and if the documents are provided to the candidate, then the investigation into the case for criminal proceedings would be jeopardized. The C.A.T. Chandigarh Bench did not consider it appropriate to peruse the relevant material and summarily rejected the plea without seeing the documents and the impugned order of the Commission dated 7.8.2012 was quashed.

9. Reference has been made to decision of Hon'ble Apex Court in case of Karnataka Public Service Commission & Ors. Vs. B.M. Shankar and Others AIR 1992 Supreme Court 952 wherein it was 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**

*AS* —

**rules and instructions issued in exercise of power conferred by the Statutes."**

It has also been stated that in a similar case in OA No.99 of 2012 to OA No.102 of 2012, titled as Gautam Sarkar, Biswajit Bala, Suman Biswas, Sudipta Biswas, Suman Das, Sujit Das respectively V/s Staff Selection Commission, the Central Administrative Tribunal, Kolkata Bench, has upheld such cancellation of candidature. In a recent judgment Hon'ble Delhi High Court has upheld the decision of cancelling the candidature on the basis of Post Examination Analysis in a similar case in WPC No.3707/2011 Varun Bhardwaj and State Bank of India, wherein scientific method was applied. The Hon'ble Court dismissed the petition vide order dated 6.2.2013 inter alia observing the following:

**"5. In my opinion, Courts cannot sit as an expert body to decide the rational test which has been applied by institutions to find out use of unfair means, and this is because unfair means are on many occasions never found to have been caught red handed. Of course, it is possible that there may be the greatest possibility of a co-incidence of the petitioner not having used unfair means, however, once the respondent No.1 uniformly applied the IBPS test, Courts would prefer not to interfere for any one of the candidate who gives the examination inasmuch as this would mean to quashing of the application of the IBPS test which is used by the respondent No.1 bank which deals with public moneys. No doubt the petitioner's argument that he was not sitting at the same centre with the other two candidates with whom the petitioner had same answers, and they were sitting at different centers in Delhi, but, in these days of technology and communications, some things do happen and therefore**

**as long as the respondent no.1 is not acting arbitrarily  
there is no reason for the Court to interfere."**

The impugned order dated 15.7.2013 showed in detail how it had been concluded that the applicant had indulged in malpractice alongwith Sh. Sukhbir Singh and his candidature in the Combined Graduate level Examination 2011 has rightly been cancelled. Hence there was no merit in this OA.

10. Rejoinder has been filed reiterating content of the O.A. and also placing on record the judgment of Principal Bench in O.A.

No.930/2014 (in the matter of Sudesh Vs. UOI and Others decided on  
30.07.2014) wherein Tribunal passed the following order:

"48. In view of the aforesigned reasons, we hold that the impugned second show cause notice dated 28.01.2014 (in the lead OA) as well as the show cause notice issued to all applicants in the connected OAs, are not fit to be legally sustained. Accordingly, we quash and set aside the same. Consequently, the respondents are directed to declare the result of all applicants in these OAs and to allocate them the Service for which they have been found eligible on the basis of pure merit, if they have been found successful. We clarify that while doing so the respondents shall take action fully in consonance with the rules and instructions governing the subject while declaring the result and for allocating the service for which the applicants are found successful on the basis of merit. The afore-noted action shall be completed within a period of three months from the date of receipt of a copy of this order."

11. Arguments advanced by learned counsel for the parties were heard. Learned counsel for the applicant narrated background of

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the matter at great length while asserting that the applicants in these OAs had not been given opportunity to defend themselves as no material was provided regarding allegations of malpractice made against them. He also alleged that there was delay in deciding the matter inspite of directions of the Tribunal. The respondents had also changed their stance from time to time as no SLP had been filed in the matter, the CBI was not taking the matter further, five rounds of litigation had already taken place and the decision of the Principal Bench in OA No.930/2014 supported the case of the applicant that his result for the 2011 examination be declared.

12. Learned counsel for the respondents stated that the case before the Principal Bench related to CGLE 2012 and show cause notice, that had been issued to the applicants in that OA and related cases had been adjudicated upon while in the present case, final order had been issued on 15.7.2013. Learned counsel stated that the candidature of Sh. Sukhbir Singh, who was stated to have been similarly involved in malpractice, had been cancelled. Learned counsel also drew attention to the content of impugned order dated 15.7.2013, wherein it had been mentioned that the present applicant Sh. Ravinder Dahiya had 40 wrong matches with Sh. Sukhbir Singh while probability of so many identical wrong answers was virtually non existent. He stated that the

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Post Examination Analysis factually established the malpractice on the part of the applicant and hence there was no merit in this OA.

13. We have carefully considered the pleadings of the parties and arguments advanced by them as well as the impugned order dated 15.7.2013. The background of the matter is hardly relevant at this stage although the same has been narrated in great detail in the OA as well as in course of arguments. The impugned order dated 15.7.2013 appears to clarify the position adequately. In an examination comprising of 200 questions, the applicant was found to have 40 wrong matches with another candidate Sh. Sukhbir Singh, who was sitting in the same

Room i.e. Room No.7, GRSD Sr. Secondary School, Ambala, Haryana.

The probability of two candidates having 40 wrong matches is infinitesimal and hence it is virtually proved that the applicant had indeed indulged in malpractice. Hence we find that the impugned order dated 15.7.2013 passed by SSC cancelling the candidature of the applicant and debarring him for a period of three years from the Commission's examination cannot be faulted. OA is hence rejected.

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

Place: Chandigarh.  
Dated: 17.10.2014.  
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(RAJWANT SANDHU)  
MEMBER (A)

Certified True Copy/प्रमाणित सत्य प्रतिलिपि

29.X.2014  
अनुभाग अधिकारी (न्याय) /Section officer (L.L.B.)  
Central Administrative Tribunal  
चंडीगढ़ दीवार Chandigarh Bench  
चंडीगढ़ / Chandigarh

Obg/tm