

**CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH**

O.A.NO.47 OF 2014

New Delhi, this the 26th day of November, 2015

CORAM:

**HON'BLE SHRI SUDHIR KUMAR, ADMINISTRATIVE MEMBER
&**

HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

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Malekun Naseer,
R/o 3rd Floor, House No.128,
Block-A, Sector-47, NOIDA

í í . Applicant

(By Advocate: Mr. Bani Singh)

Vs.

Union of India through,

1. The Secretary (Personnel),
Ministry of Personnel, Public Grievances & Pensions,
Department of Personnel & Training,
Training Division,
Block No.4,
Old JNU Campus,
New Mahrauli Road,
New Delhi 110067

 2. The Regional Director (NR),
Staff Selection Commission,
Block No.10,
5th Floor,
CGOComplex,
New Delhi

(By Advocate: Mr. S.M.Arif)

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ORDER**RAJ VIR SHARMA, MEMBER(J):**

The brief facts of the applicant's case are that he was a candidate of Combined Graduate Level Examination, 2012 (for short, CGLE-2012) conducted by Staff Selection Commission (for short, SSC) for recruitment to different posts in various Ministries/Departments/Organizations. The posts advertised in the notice of CGLE-2012 were placed in two groups, namely, interview posts, and non-interview posts. The non-interview posts were further divided into two categories, namely, (a) Tax Assistants in CBDT and CBEC for which skill test was prescribed, and (b) Auditors in CAG, CGA, and CGDA, Accountant in CAG, and UDC, for which no skill test was prescribed. He appeared in the written examination and scored 317.75 marks therein, vide results of Tier I and Tier II of the written examination declared by SSC on 8.8.2012 and 18.10.2012 respectively. Thus, he qualified for non-interview posts. As the applicant did not receive any call letter, he visited the office of SSC on 2.12.2012 to find out as to whether any call letter was issued to him by SSC. The office of SSC advised him to download his call letter from its website. Accordingly, on 2.12.2012 he downloaded the call letter (Annexure A/8) from the website of SSC. From the call letter, it was found by him that he was required to submit the documents for verification on 26.11.2012. As the date for submission and verification of documents was already over by then, he again visited the office of SSC on 4.12.2012 (Annexure A/9) and met one Mr.U.K.Sinha,

Under Secretary, and explained to him that due to non-receipt of call letter, he could not get his documents verified on the date fixed in the call letter. Mr.U.K.Sinha, Under Secretary, asked him to make an application for condonation of delay. Accordingly, he made the application to Mr.U.K.Sinha for necessary orders. Mr.U.K.Sinha condoned the delay, verified his documents, and kept photocopies thereof with him for records. In spite of all this, his name did not appear in the final result declared by SSC on 8.2.2013 (Annexure A/1). Therefore, he made a representation dated 13.2.2013 (Annexure A/1) requesting SSC to include his name in the list of candidates recommended for appointment to non-interview posts, but to no avail. In supersession of the result dated 8.2.2013 (Annexure A/1), SSC declared the revised result on 30.5.2013. In the revised result also, his name did not appear as a candidate selected for appointment to non-interview post on the basis of marks scored by him in the written examination. Therefore, he has filed the present O.A. seeking the following reliefs:

- 8.1 To direct the respondents to include the name of the applicant at appropriate place in the list of the candidates who were recommended for appointment to the non-interview post in examination result declared on 8.2.2013 (Annexure A1) and revise the said result accordingly.
- 8.2 To direct the respondents to include the name of the applicant at appropriate place in the list of the candidates who were recommended for appointment for non-interview posts in the revised examination result dated 30.05.2013 (Annexure A2) and re-revise the said results accordingly.
- 8.3 To pass any other or further order which this Hon'ble court deems fit and proper in the facts and circumstances of the case.

8.4 To grant cost of these proceedings be granted in favour of the applicant.ö

It is the contention of the applicant that when he got his documents verified by Shri U.K.Sinha, Under Secretary, on 4.12.2012, SSC acted arbitrarily and illegally in not selecting him for appointment to non-interview post on the basis of marks scored by him in the written examination, though candidates scoring less marks than him in the written examination were selected for appointment to non-interview posts.

2. Resisting the O.A., SSC has filed a counter reply wherein it is, *inter alia*, stated that candidates qualified for non-interview posts were called for Data Entry Skill Test and for submission and verification of documents on the appointed date(s). Call letters for Data Entry Skill Test and for submission and verification of documents were issued to all the candidates, including the applicant, by Speed Post. The applicant might have received the call letter. If at all the applicant did not receive the call letter, he had the facility of downloading the call letter from the website of SSC. At least, the applicant should have approached SSC before the appointed date for obtaining the duplicate call letter. Several candidates, who approached SSC for duplicate call letters, were all issued duplicate call letters.

3. In his rejoinder reply, the applicant, besides reiterating more or less the same averments and contentions as in his O.A, has stated that the call letter was not received by him. Referring to the decision of the Hon'ble Supreme Court in *Amarjit Singh & others v. Devi Ratan & others*, 2010(1)

SLJ 353, it is submitted by the applicant that he should not suffer for the mistake of the respondent-SSC.

4. We have perused the records, and have heard Mr. Bani Singh, learned counsel appearing for the applicant, and Mr. S.M. Arif, learned counsel appearing for the respondent-SSC.

5. Mr. Bani Singh, learned counsel appearing for the applicant, drew our attention to the message appearing on the webpage of the website of Staff Selection Commission, Central Region, stating **oLIST OF FINALLY SELECTED CANDIDATES OF CGL, 2012-DOCUMENTS REQUIRED**, the printout of which has been filed as Annexure A/11 to O.A., and submitted that even after final selection of candidates of CGLE-2012, SSC granted opportunity to the candidates to submit documents for verification. It was, therefore, argued by Mr. Bani Singh that the applicant having been subsequently allowed to submit documents for verification, and his documents having been verified by the concerned officer of SSC, and when, admittedly, the candidates scoring less marks than the applicant have been selected for appointment to non-interview post for which no Data Entry Skill Test was prescribed, the non-selection of the applicant for such non-interview post is bad and illegal, and hence unsustainable. It was also submitted by Mr. Bani Singh that the applicant was not at fault for non-verification of his documents on the date fixed in the call letter and, therefore, SSC ought to have verified the documents of the applicant and declared the result of his selection, or otherwise, even after declaration of the

result and revised result, as has been done in the case of several other candidates. It was also submitted by Mr. Bani Singh that the applicant, having scored 317.75 marks in the written examination, was entitled to be selected for the non-interview post of Auditor in C&AG/CGDA/CGA, etc., for which no Data Entry Skill Test was prescribed, and there was also no impediment for the SSC to have verified the applicant's documents even after the final result was declared. In this connection, Mr. Bani Singh invited our attention to Annexure A/7 and the revised result declared by SSC on 30.5.2013.

6. *Per contra*, Mr. S.M. Arif, the learned counsel appearing for the respondent-SSC, invited our attention to the call letter (Annexure A/8) issued by SSC to the applicant, the applications dated 4.12.2012 (Annexure A/9), and dated 13.2.2013 (Annexure A/10), purportedly made by the applicant to one Mr. U.K. Sinha, Under Secretary, and to the Under Secretary (C-1/1) respectively, and argued that as per the preference for posts indicated by the applicant, SSC issued the call letter (Annexure A/8) calling upon him to present himself for Data Entry Skill Test for the post of Tax Assistant and also for submission and verification of documents for other non-interview posts on 26.11.2012. The said call letter being downloadable from the website of SSC, and also having been duly issued by SSC to the applicant by Speed Post, the applicant's plea that due to non-receipt of the call letter, he could not appear on the date fixed for Data Entry Skill Test, and for submission and verification of documents, is untenable, besides

being frivolous. It was also contended by Mr.S.M.Arif that the purported applications dated 4.12.2012 and 13.2.2013, *ibid*, were never made by the applicant to any officer of SSC, far less to Mr.U.K.Sinha, Under Secretary, or to the Under Secretary (C-1/1) of SSC. Mr.S.M.Arif also submitted that it was clearly stipulated in the call letter (Annexure A/8) that the candidates, who did not intend to appear in Data Entry Skill Test, should attend on the appointed date for verification of documents, failing which they would not be considered for any post. Therefore, there was no scope for submission of documents by the applicant and verification thereof by SSC on any date other than 26.11.2012, and the applicant was rightly not considered for selection and appointment to any non-interview post.

7. The call letter dated 26.10.2012(Annexure A/8 to the O.A.), which was downloadable by the applicant from the website of SSC and was despatched to the applicant by Speed Post, is reproduced below:

oS.No.2/1/2012-ND-I Speed Post
GOVT. OF INDIA
STAFF SELECTION COMMISSION (NORTHERN REGION)
Block No.12, CGO Complex,
Lodhi Road, New Delhi 110003
DATED 26.10.2012

**COMBINED GRADUATE LEVEL EXAMINATION, 2012- CALL LETTER FOR
DEST FOR THE POST OF TAX ASSISTANT/SUBMISSION & VERIFICATION OF
DOCUMENTS (NON-INTERVIEW POSTS)**

ID NO: 4748

Roll No. 2201093548

Name: MALEKUN NASEER

Photo

TANVIR ROSHAN RAHMAN

E-181
GROUND FLOOR
TAGORE GARDEN
NEW DELHI

DELHI 110027

Dear Candidate,

With reference to your application for the above mentioned Examination, I am directed to inform you that on the basis of the result of written examination declared by the Commission, you have been found to be provisionally eligible to be called for Data Entry Skill Test (DEST) on Computer/submission & verification of documents. Accordingly, you are requested to present yourself for the Skill Test purely on provisional basis as per the following programme and venue:

Date of DEST	26/11/2012	Batch	(VIII)	Batch SN	0098
Reporting Venue	Time at	04.00 PM		Group	(G)
DEST	DEST on Computer as per the notice of the examination.				
Address of Venue of DEST	O/o Registrar General of India (Data Capture Centre), West Block No.1, Wing 1 (Opposite Sewa Bhawan), R.K.Puram, Sector 1, N. Delhi 110066				
Essential Educational Qualification	As per Notice of the Examination				
DOB	16/04/1985		Category	UR	
Preference (Post)	IJEFDMLKABOCNGHPSRTWUVXY		Qualified for List	LIST- III, IV	

2. You are requested to fill up the Attestation Form (duly attested by gazetted officer) enclosed herewith correctly with photograph pasted on it & must bring three photocopies of the same at the time of Skill Test. You will not be allowed to appear in DEST without possession of valid photo bearing ID Proof and original copies of certificates/documents.

3. You must bring the call letter (in Original) along with original and photocopies of proof of date of birth, graduation certificate/all three years mark sheets, etc. While appearing for the Skill Test, following rules should be kept in mind.

- (i) Matriculation/High School/equivalent certificate, issued by the State/Central Education Board showing your date of birth (in Christian Era) will be accepted. Birth certificate issued by the Principal/Headmaster of the School/Institute where you studied or Date of birth recorded on mark sheet will not be accepted.
- (ii) You may note that you should fulfill and in possession of Educational Qualification (EQ) on or before 15.04.2011 as per notice of examination.
- (iii) You should possess the OBC certificate in the format prescribed for Govt. Of India post as per the notice of the exam. Candidates claiming OBC status may note that OBC certificate mentioning creamy layer status should have been obtained within three years as on the date of the Skill Test (21.04.2009 to date of DEST). You should bring the Caste certificate in case of SC/ST candidates and Central Govt. Civilian employees certificate and NOC in case of candidate availing age relaxation under CGCE, Discharge certificate in case of EX Servicemen candidates, OH/HH/VH certificate in prescribed format in case of candidates belonging to Physically Handicapped category, duly self attested for verification and four (04) passport size photographs along with ID proof (Voter card/identity card issued by the college etc.) at the time of Skill Test.

- (iv) On actual verification from the original documents, if you are not found fulfilling educational qualification (EQ) or any other eligibility criteria as per notice you will not be allowed to attend the Skill Test. You must reach the venue of Skill Test before the reporting time. No change in date/venue of typing test shall be allowed under any circumstances.
- (v) Inclusion of any candidate in any of the list of the post for which he/she has not opted will not confer any right on his/her consideration for any post which he/she had not exercised option.
- (vi) **The candidates, who do not intend to appear in DEST, should attend on the appointed date for documents verification, failing which they will not be considered for any post.**
- (vii) Exemption from DEST for PH candidates is subject to Govt. Policy in this regard.
- (viii) The Skill Test will be of qualifying nature. The test passage will be in English only. The candidate will not be required to re-type the text on completion of the passage and therefore should utilize the spare time to correct mistake, if any. Detailed instructions on Skill Test and CPT are available on the Commission's website, viz. (<http://ssc.nic.in>)

Sd/ A.K.DADHICH
Under Secretary

8. It is the admitted position between the parties that the result of Tier II of the written examination was declared by SSC on 18.10.2012, and the applicant scored aggregate marks of 317.75 in Tiers I and II of the written examination, on the basis of which he qualified for non-interview post of Tax Assistant for which Data Entry Skill Test was prescribed, and for other non-interview posts for which no Data Entry Skill Test was prescribed.

9. It is also the admitted position between the parties that the applicant did not present himself on 26.11.2012 for Data Entry Skill Test and for submission and verification of documents, including attestation forms.

10. The applicant has stated that due to non-receipt of the call letter dated 26.10.2012 (Annexure A/8) by him, he could not present himself on 26.11.2012 for Data Entry Skill Test and for submission and verification of

documents, and that on the advice of the office of SSC, he downloaded the said call letter from the website of SSC on 2.12.2012. Thus, it is clear that the call letters to candidates, who were declared to have qualified for Data Entry Skill Test and for submission and verification of documents for the post of Tax Assistant and other non-interview posts on the appointed date(s), as indicated in their respective call letters, were not only downloadable from the website of SSC by those candidates, but also despatched by SSC to all those candidates by SSC through Speed Post. The applicant has not specifically disputed the statement of SSC that the candidates, who did not receive the call letters, were issued duplicate call letters by SSC, when they approached and made such request to SSC on the ground of non-receipt of call letters by them. Had the applicant made such request to SSC to issue duplicate call letter, SSC could have issued the same. But the applicant neither downloaded the call letter from the website of SSC, nor did he approach and make such request to SSC before the appointed date, if at all he did not receive the call letter despatched by SSC to him through Speed Post. Along with its counter reply, SSC has filed the original receipt granted by the Department of Posts showing despatch of call letters to the applicant and some other candidates by Speed Post. The applicant has not produced before us any contemporaneous document to show that the call letter dated 26.10.2012 despatched by SSC to him through Speed Post was not delivered by the concerned Post Office to him on any date before 26.11.2012, i.e., the date fixed for Data Entry Skill Test and for submission and verification of

documents, etc. In the above view of the matter, we have no hesitation in rejecting the plea of the applicant that solely due to non-receipt of the call letter dated 26.10.2012 he could not present himself on 26.11.2012 for Data Entry Skill Test and for submission and verification of documents, etc.

11. In support of his plea that the delay in submission and verification of documents was condoned, and his documents were verified by one Mr.U.K.Sinha, Under Secretary, SSC, on 4.12.2012, the applicant has filed copies of his applications dated 4.12.2012 and 13.2.2013 (Annexure A/9 and Annexure A/10 respectively).

11.1 By application dated 4.12.2012 (Annexure A/9) purportedly made by him to the Under Secretary, SSC, Northern Region, Delhi, the applicant requested the Under Secretary, SSC, to condone the delay and allow him to appear for Data Entry Skill Test and submit documents for verification. It is the claim of the applicant that one Mr.U.K.Sinha, Under Secretary, made an endorsement on his application, dated 4.12.2012, as follows:

öWe may consider him for document verification onlyö.

On the basis of the above endorsement purportedly made by Mr.U.K.Sinha, Under Secretary, the applicant claims that his documents were verified on 4.12.2012. This claim of the applicant is untenable. Even if it is assumed for a moment that such an endorsement was purportedly made by Mr.U.K.Sinha, Under Secretary, the same cannot be construed to mean that his documents were verified on 4.12.2012 by Mr.U.K.Sinha, Under

Secretary. Had the documents of the applicant been verified by Mr.U.K.Sinha, Under Secretary, there would have been a specific endorsement recording the fact of verification of documents of the applicant on 4.12.2012. Furthermore, it cannot be said that Mr.U.K.Sinha, Under Secretary, made the said endorsement on the application dated 4.12.2012 and handed over the same to the applicant.

11.1.1 The applicant has not impleaded Mr.U.K.Sinha, Under Secretary, as a party-respondent in the present O.A.

11.1.2 It is not the case of the applicant that SSC permitted other candidates, who could not present themselves on the date(s) appointed for Data Entry Skill Test or for submission and verification of documents, to appear and get their documents verified by any other officer or by Mr.U.K.Sinha, Under Secretary, SSC, subsequently. The applicant has not placed before us any material to show that Mr.U.K.Sinha, Under Secretary, was authorized by SSC to condone the delay and verify documents of candidates, like the applicant, on any date(s) other than the date(s) appointed for the purpose, whenever such candidates approached him.

11.2 It is also claimed by the applicant that after the final result was published on 8.2.2013, he made another application dated 13.2.2013 (Annexure A/10) to the Under Secretary (C-1/1), SSC, wherein he referred to his earlier application dated 4.12.2012 and the verification of documents made on 4.12.2012, and pointed out that despite verification of his documents on 4.12.2012, his name did not find place in the final result

though candidates scoring less marks than him were selected for non-interview posts, for which no Data Entry Skill Test was prescribed. The said application dated 13.2.2013 bears a receipt stamp of SSC. The receipt stamp appearing on the said application dated 13.2.2013 does not bear the diary number and signature of any official of the SSC acknowledging receipt of the said application from the applicant. All this casts doubt on the veracity of the said application dated 13.2.2013.

11.3 Thus, it is found that the applicant has not approached the Tribunal with clean hands.

11.4 In view of the above, we are not inclined to accept the claim of the applicant that the delay in submission of documents was condoned, and his documents were verified by SSC on 4.12.2012.

12. Referring to the message appearing on the webpage of the website of SSC, Central Region, the printout of which has been filed as Annexure A/11 to O.A., the applicant has contended that after the final selection of candidates was made, SSC granted opportunity to several candidates to appear and submit documents for verification and, therefore, he ought to have been granted an opportunity to submit documents for verification. On a perusal of the materials available on records, we have found that the applicant had made the application to SSC, Northern Region. Neither the said message, nor the note interpolated by the applicant at the bottom of the said message, states that those candidates, whose documents were not partially or completely verified, did not present themselves on the

appointed date(s) for Data Entry Skill Test and for submission and verification of documents, etc. Therefore, the applicant being not similarly placed as those candidates, the said message is of no help to his case.

13. In the call letter dated 26.10.2012 (Annexure A/8), which has been reproduced in paragraph 7 above, it was clearly stipulated that the candidates, who did not intend to appear in Data Entry Skill Test, should attend on the appointed date for verification of documents, failing which they would not be considered for any post. Having failed to present himself on 26.11.2012 for submission and verification of documents, including attestation forms, and also having failed to establish his pleas that his documents were verified by SSC on 4.12.2012, and that further opportunity was granted by SSC to any other similarly placed candidate, the applicant cannot be allowed to claim selection for non-interview post of Auditor, etc., for which no Data Entry Skill Test was prescribed. Thus, no fault can be found with the respondent-SSC for not considering the applicant's candidature for selection and recruitment to any non-interview post for which no Data Entry Skill Test was prescribed.

14. **In Secretary, Union Public Service Commission and another v. S. Krishna Chaitanya**, (2011) 14 SCC 227, the Hon'ble Supreme Court has held that the negligence on the part of the respondent-candidate has resulted into his sufferance and he himself is only to be blamed for the events.

15. As the applicant has not been able to establish any fault on the part of the respondent-SSC, the decision in *Amarjit Singh*'s case (supra) is of no help to his case.

16. After having given our anxious consideration to the facts and circumstances of the case, and the rival contentions, we have found no substance in any of the contentions raised by the applicant.

17. In the light of our above discussions, we find no merit in the O.A. The O.A. being devoid of merit is dismissed. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER

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