

Central Administrative Tribunal  
Principal Bench: New Delhi

CP No.709/2015  
IN  
OA No.3309/2014  
MA No.2836/2014

New Delhi this the 26<sup>th</sup> November, 2015

**Hon'ble Shri Sudhir Kumar, Member (A)**  
**Hon'ble Shri Raj Vir Sharma, Member (J)**

1. Shri Amit  
Roll No.2201021345  
S/o Shri Pratap Singh  
R/o V.P.O.Nandnaur,  
Distt. & Tehsil Sonepat,  
Haryana-131027.
2. Shri Rajesh  
Roll No.2201020088  
S/o Shri Ved Prakash  
R/o H.No.453/6, New Court Road,  
Gali No.03, Ashok Vihar Sonipat,  
Sonipat, Haryana-131001. ....Petitioners.

(By Advocate: Shri Vishwendra Verma)

Versus

Shri A. Bhattacharya, I.A.S.  
The Secretary-cum-Controller of Examination  
Staff Selection Commission,  
Block No.12, CGO Complex,  
Lodhi Road, New Delhi-110003. ....Respondent.

(By Advocate: Shri S.M.Arif)

**ORDER (ORAL)**

**Per Sudhir Kumar, Member (A):**

Heard the learned counsel for the petitioners on the point of admittance of the case for the purpose of issuance of notice to the respondent/alleged contemnor in the C.P.

2. It is seen that the common order & judgment in 21 OAs was passed on the basis of decision of this Tribunal dated 30.07.2014 in an earlier OA No.930/2014 in **Sudesh vs. Staff Selection Commission & Others.**

Paras 11 to 17 of that order & judgment were as follows:

"11. We have also perused the judgment dated 17.09.2014 in OA No.2839/2014 along with other connected OAs. It appears that the facts involved in the present set of OAs are similar to the facts in OA No.2839/2014 and similar show because notice dated 27.05.2013 was issued by the Respondent-SSC to the applicant in that OA. Reference was also made to the judgment of the Tribunal dated 30.07.2014 in OA No.930/2014 (Sudesh Versus Staff Selection Commission and others) wherein the second show cause notice issued to the applicants was quashed and set aside and the respondents were directed to grant appointment to the applicants within 90 days.

12. Paras 22 to 26 of the order dated 17.09.2014 in OA No.2839/2014 reads as under:-

"22. After examining whether the second show cause notice issued to the applicants in these OAs provided sufficient material or not to enable the applicants to place their defence, the Tribunal in para 25 came to the conclusion that the second show cause notice also did not provide sufficient and reasonable opportunity to the applicants to place their defence, which was required in terms of the principles of natural justice. It also concluded in para 27 that both the show cause notices issued to the applicants were more or less identical and had been issued in a mechanical manner and in para 40. It was further held that for the same reason as contained in the order of the Tribunal dated 22.11.2013, as well as in the order of the Co-ordinate Bench at Allahabad dated 06.05.2014, the impugned show cause notices were not fit to be legally sustained and were quashed and set aside.

23. Another aspect noticed was that more than nearly two years and four months had already elapsed since the publication of notice of CGLE-2012. Such a long period of litigation had delayed the appointment of the applicants, which would not only adversely affect the career of the applicants but would keep them in total uncertainty. In para 46, it was concluded that any further delay cannot therefore be allowed.

24. In the present OAs also, we find that the notice for the CGLE-2012 was issued on 24.03.2012. Thus, nearly 2 years and 6 months had already elapsed since issue of the said notice. It is also observed that if the respondents are allowed to issue a second show cause notice, it will take further time and would result in further delay in the matter. This would adversely affect the career of the applicants and lead them to further uncertainty.

25. It appears from para 33 of the order in OA No.930/2014 that in CP No.31/2014 in OA No.2054/2013 along with other related CPs, the Tribunal in order dated 07.03.2014 had observed However, it is a fact that it is well nigh impossible to reply to a show cause notice which does not indicate to them the exact evidence of malpractice/unfair means and what the modus operandi of the department has been. It was noted by the Tribunal in that order that even the second show cause notice suffered from non-indication of malpractice/unfair means and what the modus operandi of the department had been.

26. It is thus apparent from above that even after the second show cause notice was issued and the same having been examined by the Tribunal, it was found that as per the second show cause notice had the respondent-SSC hardly any material to substantiate the allegation other than those mentioned in the first show cause notice.

We have also noted that no averment or argument has been placed on behalf of the respondent-SSC that subsequent to the order in OA No.930/2014 dated

30.07.2014, they have been able to collect additional material to substantiate the allegations against the applicants so as to justify the issuance of the second show cause notice.

We have also noted above that the chronology of events would also lead to the conclusion that the entire process has been unduly delayed and that nearly 2 years and 6 months have elapsed from the date of issue of the notice for CGLE-2012 and nearly 1 year and 7 months have elapsed since respondents declared the result on 08.02.2013. The future of the applicants continues to be uncertain. We, therefore, conclude that no useful purpose would be served by permitting the respondent-SSC to issue a second show cause notice in the present set of OAs. The Allahabad Bench also had passed final orders on the basis of the first show cause notice without giving opportunity to the SSC to issue any further show cause notice.

13. We are of the view that the same considerations and conclusion would apply in the present set of OAs.

14. In para-27 of the aforesaid order of the Tribunal in OA No.2839/2014, it was directed as follows:-

27. Having regard to above, the impugned show cause notices in these OAs not being legally sustainable are quashed and set aside. Respondents are directed to declare the results of the applicants in these OAs, and allocate them to the service purely on the basis of merit, if found successful in the examination. While doing so, the respondents shall fully conform to the rules and instructions for declaration of results and for allocation of service to those applicants who are found successful on the basis of pure merit. The aforesaid exercise shall be completed by the respondents within a period of three months from the date of receipt of a copy of this order.

15. We are of the view that the applicants herein who are similarly situated and have similar grievances, deserve the same consideration. We accordingly

conclude that the show cause notice issued by the Respondent-SSC in these OAs is not fit to be legally sustained and are therefore quashed and set aside. The applicants in these OAs are entitled to the same relief as granted in the aforesigned para-27 of the order dated 17.09.2014 in OA No.2839/2014 along with other OAs.

16. Respondents shall accordingly comply with these directions within a period of three months from the date of receipt of a copy of this order.

17. OA 2525/2013 along with connected OAs is accordingly allowed by this common order with aforesigned directions. No order as to costs. Any interim order in any of these OAs stand vacated."

3. Shri S.M.Arif, learned standing counsel for the Staff Selection Commission, who is present in the Court, points out that the common order & judgment dated 30.07.2014 in OA No.930/2014 in **Sudesh vs. Staff Selection Commission & Others** (supra), which was parallel with the case as decided in the 21 connected OAs, and on the basis of which conclusion the common order & judgment in those 21 cases was passed, has since been stayed by the Supreme Court and that order in OA No.930/2014 is no longer in operation.

4. We find that when the common order & judgment in the 21 connected OAs was passed relying upon an earlier order & judgment dated 30.07.2014 in OA No.930/2014, and the Supreme Court has since stayed that earlier order, any subsequent order passed on the basis of that earlier judgment and order dated 30.07.2014 cannot obviously be implemented. Therefore, while we do observe that the respondents have

not fulfilled the directions, as given in Para-16 of the order dated 21.11.2014, but, still, so long as the Supreme Court is seized of the matter in its entirety, it cannot be termed to be a willful disobedience, with *mens rea* to disobey the order of this Tribunal, which is a *sine qua non* for initiation of the contempt proceedings.

5. Therefore, this C.P. does not lie, and the same is dismissed *in limine*.

(Raj Vir Sharma)  
Member (J)

(Sudhir Kumar)  
Member (A)

/kdr/