

**Central Administrative Tribunal
Principal Bench, New Delhi.**

**OA-2964/2017
MA-3554/2017
MA-3553/2017
With
OA-3377/2017
OA-3287/2017**

Reserved on : 09.10.2017.

Pronounced on :23.10.2017

**Hon'ble Mr. Raj Vir Sharma, Member (J)
Hon'ble Ms. Praveen Mahajan, Member (A)**

OA-2964/2017, MA-3554/2017 & MA-3553/2017

1. Sh. Rohit Kumar, 26 years
S/o Sh. Tejbeer Singh,
R/o H.No. 731 (366-a),
Kampu Wali Gali,
VPO Kanjhawala,
Delhi-110081.
2. Ms. Anuradha, 27 years
D/o Sh. Surender Gupta,
R/o 173/17, Vijay Nagar,
Rohtak-124001.
3. Ms. Sonakshi Malhotra, 26 years
D/o Sh. Parveen Malhotra,
R/o 296, Shastri Colony,
Yamuna Nagar,
Haryana-135001.
4. Sh. Sandeep Dhankhar, 29 years
S/o Sh. Wazir Singh,
R/o 2010/21, Kamla Nagar,
Rohtak-124001.
5. Sh. Ravindra Singh Baghel, 25 years
S/o Sh. Chandan Singh,
R/o Village-Ram Nagar, Post Malah,
Dist. + The. Bharatpur,

Rajasthan-321001.

6. Sh. Rohit Kumar, 27 years
 S/o Sh. Lal Narayan Singh,
 R/o Q.No. 266 D, New Loko Colony,
 (Northern Railway), Varanasi,
 UP-221002.
7. Sh. Akash Kumar Saini, 24 years
 S/o Sh. K.L. Saini,
 R/o H.No. 66, Mohalla-Lal Diggi,
 Alwar, Rajasthan-301001.
8. Sh. Girish Kumar, 26 years
 S/o Sh. Roshan Lal,
 R/o H.No. 762, Gali No.13,
 Vijay Nagar, Rewari,
 Haryana-123401.
9. Sh. Sourav Singh, 29 years
 S/o Sh. Bir Singh,
 R/o RZ B-41, Indra Park,
 Uttam Nagar,
 New Delhi-110059.
10. Sh. Ankit, 26 years
 S/o Sh. Munshi Lal,
 R/o G-15, DDA MIG Flats,
 Phase-II, Prasad Nagar,
 Karol Bagh, New Delhi.
11. Sh. Rohit Singh, 25 years
 S/o Sh. Rajpal Singh,
 R/o B-7/187, Sector-4,
 Rohini, Delhi-110085.
12. Sh.Samar Abbas Jafri, 30 years
 S/o Sh. Jamil Ahmad Jafri,
 R/o A-5/4, Nirala Nagar,
 Corporation Flats, Lucknow,
 Uttar Pradesh-226020.
13. Sh. Savdeep Singh, 26 years
 S/o Sh. Baljeet Singh,

R/o H.No. 1870/23, Vijay Nagar,
Near Indus School Kids Wing,
Dist. Jind, Haryana-126102.

14. Sh. Vivek Kumar Sinha, 24 years
S/o Sh. Kaushal Kishore Sinha,
R/o C/o Sh. Kaushal Kishore Sinha,
Near Agni Maa Mandir,
By Pass Ghughari Tand, Gaya,
Bihar-823001.
15. Sh. Dharmendra Kumar Singh, 33 years
S/o Sh. Lalan Singh,
R/o Shop No.2, A/Block Market,
PO Bhuli, Dist. Dhanbad, Jharkhand.
16. Sh. Prathipati Girish Venkat Chand, 27 years
S/o Sh. Prathipati Rambabu,
R/o Block-A, 101, Sri Chakra Nilayam Allapur
Cooperative Society, Nizampet Road,
Kukatpally, Hyderabad, Telangana.
17. Sh. Ayan Dey, 23 years
S/o Sh. Kartick Dey,
R/o South Rajyadharpur, Nursery Para,
P.O. Mallickpara, P.S. Serampore, Dist. Hoogly,
West Bengal – 712203.
18. Sh. Sriramoju Prem Kumar, 28 years
S/o Sh. Sriramoju Narasimha Chary
R/o H.No.10-2-629/1, C/o L.B.Reddy, Road No.1,
Vidyanagar, Karimnagar, Telangana – 505001.
19. Sh. Lenkala Pradeep Kumar Reddy, 26 years
S/o Shri Lenkala Madhava Reddy
R/o H.No.6-9-170/2, Nagarjuna Bank Colony
HYD Road, Nalgonda, Telangana-508001.
20. Sh. Rajesh Krishna Jha, 39 years
S/o Shri Bodh Narayan Jha
R/o C/o Hiranand Thakur J-21, Popular Heights 4,
Burning Ghat Road, Koregaon Park, Pune – 411 001.

21. Sh. Sandolla Dasharath, 25 years
S/o Shri Sandolla Nagabhushanam
R/o H.No.6-128, Bagath Singh Chowk
Boath, Adilabad, Telangana.
22. Sh. Vikas Sengar, 26 years
S/o Shri Birendra Singh Sengar
R/o 12/45, Dalhai, Tajganj, Agra, UP.
23. Ms. Ritu, 22 years
D/o Shri Pasand Singh
R/o VPO Kabulpur, Dist. & Teh. Rohtak
Haryana – 124201.
24. Sh. Sanjay Rao, 24 years
S/o Shri Ashok Kumar Yadav
R/o AR-5, Arjun Nagar, Turkiawas Road, Rewari.
25. Sh. Raviprolu Krishna Kumar, 24 years
S/o Shri Raviprolu Venkatesh
R/o H. No.1-74-14/C, Ramashankar Nagar
Ramanthapur, Hyderabad, Telangana-500013.
26. Sh. Sumit
S/o Shri Rakesh
R/o Near Old Post Office
Ward No.8, Punhana Mewat
Haryana – 122508. Applicants

Versus

1. Union of India
Through its Secretary
Department of Personnel & Training
Ministry of Personnel, Public Grievance & Pension
North Block, New Delhi.
2. Staff Selection Commission
Through its Chairman (Head Quarter)
Block No.12, CGO Complex
Lodhi Road, New Delhi -110 504.Respondents

OA-3377/2017

Sh. Rakesh Kumar, 24 years
S/o Sh. Kailash Chander Suthar,
R/o VPO Malwani, The. Nohar,
D-Hanumangarh, Rajasthan-335523.

.... Applicant

Versus

1. Union of India
Through its Secretary
Department of Personnel & Training
Ministry of Personnel, Public Grievance & Pension
North Block, New Delhi.
2. Staff Selection Commission
Through its Chairman (Head Quarter)
Block No.12, CGO Complex
Lodhi Road, New Delhi -110 504.

.....Respondents

OA-3287/2017

Sh. Subhankar Chatterjee(UR), 24 years
S/o Sh. Sujit Chatterjee,
R/o Flat No. 01, UGF, Khasra No. 1810,
House No. 51A, Block A-2,
Lane No. 13, Aya Nagar,
Phase-V, Delhi-110047.

.... Applicant

Versus

1. Union of India
Through its Secretary
Department of Personnel & Training
Ministry of Personnel, Public Grievance & Pension
North Block, New Delhi.
2. Staff Selection Commission
Through its Chairman (Head Quarter)
Block No.12, CGO Complex,
Lodhi Road, New Delhi -110 504.
3. Staff Selection Commission (Northern Region)
Through its Regional Director,
Block No.12, CGO Complex,

Lodhi Road, New Delhi-110504.

.... Respondents

Present : Sh. Ajesh Luthra, counsel for applicants.

Sh. C. Bheemanama, Sh. Rajesh Katyal, Sh. H.K. Gangwani
and Sh. M.K. Bhardwaj, counsel for respondents.

O R D E R

Ms. Praveen Mahajan, Member (A)

The issues involved in these three OAs are similar, hence, they are being disposed of by this common order. For the sake of convenience, OA-2964/2017 is taken as the lead case.

2. Briefly stated the facts of the case are that in response to an advertisement issued by the Staff Selection Commission (SSC) to fill various posts by way of Combined Graduate Level Examination, 2016 (CGLE-2016), the applicants applied for the respective posts. They were issued Admit Cards and participated in Tier-I Examination conducted from August, 2016 to September, 2016. On 15.11.2016, the respondents issued the marks statement of Tier-I, and, as claimed by the applicants, they obtained high merit position. A list of qualified candidates was published on 08.11.2016 in which they have also been declared qualified in Tier-I for appearing in Tier-II. Thereafter, they were issued admit cards for Tier-II and Tier-III, which were conducted from November, 2016 to December, 2016. The applicants participated in the same. Thereafter, due to certain

reasons, SSC ordered to re-conduct the Tier-II examination on 12.01.2017 and 13.01.2017 respectively. On 02.03.2017, the respondents issued the marks statement of Tier-II. The applicants were called for Tier-III examination, which was conducted on 19.03.2017 in which they participated. Immediately thereafter, some of the applicants realized that they have inadvertently committed an error by not mentioning their medium and such other particulars in the answer sheets. They made representations dated 20.03.2017 and 31.03.2017 to the respondents for rectification of the errors in answer sheets pertaining to Tier-III examination. The respondents called the applicants for document verification from April, 2017 to May, 2017. On 17.08.2017, the respondents published the marks statement as well as final result in which the applicants have been shown rejected due to error committed by them in the answer sheets. Aggrieved by the same, the applicants have approached this Tribunal seeking the following relief:-

- “(a) Quash and set aside the impugned action/order of the respondents rejecting the applicants candidature reflected in their impugned decision dated 17/08/2017 placed at Annexure A/1 to the extent they relate to the applicants.
- (b) Direct the respondents to evaluate the answer sheets of the applicants for Tier-3 and further consider the applicants cases for appointment as per their merit position along with others.
- (c) Accord all consequential benefits.
- (d) Award costs of the proceedings; and

- (e) Pass any order/relief/direction(s) as this Hon'ble Tribunal may deem fit and proper in the interests of justice in favour of the applicants."

3. The applicants state that in an identical **OA No. 263/2017** (Avinash Chandra Singh & Ors. Vs. SSC) with two connected matters, the Tribunal vide their order dated 21.02.2017 had allowed the OAs and directed the respondents to process the candidature of the applicants therein in case they were not found ineligible for any other reason. This decision of the Tribunal has been affirmed by the Hon'ble High Court of Delhi in WP (C) No.6086/2017 vide judgment dated 29.08.2017. In support of their claim, the applicants have further relied upon the following judgments of Hon'ble High Courts as well as CAT:-

- (i) **Rohit Kumar Vs. UOI & Anr.** (CWP No. 13720/2012).
- (ii) **Anil Kumar Vs. State of Rajasthan & Ors.** (CWP No. 657/2012 decided on 02.1.2013).
- (iii) **Ravindra Malik Vs. SSC & Ors.** (OA-2063/2012).
- (iv) **Arvind Kumar Kajla Vs. UOI & Ors.** (OA-1802/2012).
- (v) **Subhanta Devi Vs. State of Rajasthan** (CWP-11269/2011).
- (vi) **Neeraj Kumar** (CWP NO.1004/2012).

4. In their reply, the respondents state that they conducted the examination within the frame work of the Rules/Guidelines and Instructions, which are uniformly applicable to all candidates. The

applicants have violated the instructions contained in the answer books of CGLE, 2016 by not following the same correctly. Therefore, they have not been declared qualified. They further submit that Hon'ble High Court of Allahabad relying upon the judgment in the case of **Dr. M. Vennila Vs. Tamil Nadu Public Service Commission**, 2006 LAB I.C. 2875 dismissed Writ Petition No. 48846/2006 vide its order dated 28.08.2012. They also stated that in WP(C) No. 3624/2012 Hon'ble High Court of Delhi vide its order dated 13.02.2013 has held that "petitioner ought to have been vigilant himself". The Hon'ble High Court further observed that "the era of today i.e. 21st century, is the era of computer technology and we all live a part of our lives in the virtual world of the internet." In view of this, the respondents have stated that the action of the SSC in rejecting the candidature of the applicants is in conformity with the extant rule, which had been made explicit to all candidates. Hence, the present O.A. be dismissed.

5. During the course of hearing, learned counsel for the applicants Sh. Ajesh Luthra forcefully reiterated the issues already stated in the OA. He submitted that the issue is squarely covered by the judgments in the cases of **UOI Vs. Rohit Kumar** (CWP-13720/2012) of Hon'ble High Court of Punjab and Haryana, **UOI & Anr. Vs. Nitish Kumar**, [(WP(C) No. 5948/2017 and CM No. 24690/2017] dated

28.08.2017 of Hon'ble High Court of Delhi and **UOI & Anr. Vs. Avinash Chandra Singh and Ors.**, [WP(C) No. 6086/2017] dated 29.07.2017 of Hon'ble High Court of Delhi. He emphasized that it was wrong on the part of the respondents to reject the candidature of the candidates merely because of some inadvertent errors committed by them in mentioning one or the other particulars in the answer sheets, which happened inadvertently due to examination related stress and hurry. The applicants did not resort to any deceitful or unfair means making their intentions mala fide. Sh. Luthra produced before us a copy of the answer sheets of the applicant No. 1 (Rohit Kumar Roll No. 2201278767) and applicant No.11 (Rohit Singh Roll No. 2201078351). In both cases "language rejection" is the reason given for disqualification of the candidates. He showed us that candidates had put a cross against the column, language, instead of stating that the medium was English or Hindi. He submitted that this fact could have been easily verified from the answer sheets of the applicants. Disqualification of the applicants merely on account of this procedural/technical omission was totally unwarranted. He pointed out that despite non filling of the column, the invigilator has signed the answer sheet, which has also been evaluated. Citing the judgment of Hon'ble High Court of Delhi in the case of **UOI & Ors. Vs. Sumit Kumar**, [WP(C)-4829/2017 & CM Nos. 20834/2017, 23433/2017]

dated 10.08.2017, he submitted that the Hon'ble Court has dealt with an almost identical issue favourably, observing that:-

“8....The relevant instructions contained in the answer sheet have been extracted hereinabove. No doubt, they prescribe that the candidate should, inter alia, fill in the language in the box in which the question paper is being answered by the candidate, and any failure to do so would invite 'zero' marks. However, it also contains a note that the *“invigilator to sign after verifying that all particulars have been filled in/affixed by the candidate properly.”* The opening sheet of the answer script of the Respondent-which is placed on record, shows that the invigilator had signed the same. Thus, not only the Respondents/Applicant, but also the invigilator-who is an agent of the Petition, had failed to notice the omission on the part of the Respondent in indicating the language/medium in which the answer sheet was answered.....”

He placed reliance on the judgment of Hon'ble High Court of Judicature at Hyderabad in the case of **UOI, Ministry of Personnel and Ors. Vs. Guduru Raja Surya Praveen and Ors.**, (WP No. 28874/2015) dated 18.11.2015 (para-9) where it has been held that:-

“9. Providing an equal opportunity to compete for selection to public employment is a fundamental right enshrined under Articles 14 & 16 of our Constitution. In matters of such fundamental rights, no impediment which is more in the nature of a technicality should be allowed to play a substantive role resulting in denial altogether of such rights. To the extent possible, fundamental rights should be allowed to have a free flow effect and impact. Therefore, looked at from any perspective, failure to thicken a couple of circles not with regard to the answers to be furnished by the candidate to the questions 1 to 200, but with regard to the test form number, in our opinion would not be fatal. In fact, in the present case, the test form number has been accurately filled-in, in the column provided for that purpose in the answer sheet. There is also a corresponding verification exercise by thickening the circle concerned furnished down below the test form number. Due to lapse of concentration, obviously induced by the enormous pressure, one would feel at the initial stage of subjecting himself to an examination, an error resulted in not thickening the circle relating to the token number and such technical error should not result in negation of the right to be considered for public employment notwithstanding the demonstrable merit processed by the candidate

concerned. We are, therefore, of the opinion that the failure on the part of the Staff Selection Commission to evaluate the answer sheet of the respondent relating to Paper-II of the Tier-II test that was conducted on 12.04.2015 as an erroneous decision. In fact, we should also record that, pursuant to an interlocutory order passed by us on 14.10.2015, the answer sheet of the first respondent herein was got evaluated and the learned Assistant Solicitor General has, brought on record the order dated 06.11.2015 passed by the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, Staff Selection Commission (Southern Region), bringing it out that the first respondent herein has qualified in Tier-II for appearing in the interview for posts other than the Statistical Investigator Grade-II and also for such posts for which interview is not forming part of the selection process. In other words, the merit of the first respondent herein has been held established. We have taken on record the communication dated 06.11.2015 of the Regional Director of the Staff Selection Commission (Southern Region) which was placed before us along with a memo dated 12.11.2015 by the learned Additional Solicitor General."

It is further observed in the judgment that:-

"21.not every omission committed by a candidate would have the consequence of his answer sheet being rejected, or being awarded 'zero' marks. It would depend on the nature of the omission committed by the candidate. The candidates for the examination in question are mere school pass-outs. If there has been a failure on the part of a candidate to fill up the column relating to the medium/language in which the answer sheet has been written, the same is not such a significant omission, as could not have been remedied by the personnel of the Petition itself...."

In the other two judgments, relied upon by the applicants, i.e.

Avinash Chandra Singh & Ors. (supra) and **Nitish Kumar** (supra)

Hon'ble High Court of Delhi has upheld the same view relying upon the decision in the case of **Sumit Kumar** (supra).

5.1 Rebutting these arguments, the learned counsel Sh. Bheemanna for the respondents, stated that 10659 candidates have been declared qualified in the final result of CGLE, 2016 and allocated to various Central Government departments. He

submitted that the instructions contained in the answer book issued to each candidate to appear for T-III examination is annexed as Annexure R-2 of the MA-3773/2017 filed by the respondents. The Instructions stipulate that:-

"Answer-Books not bearing candidates' Name, Ticket No., Roll No. and Signature wherever required will not be evaluated and such candidates would be awarded "Zero" marks.

The candidates will be awarded "Zero Marks" if they have not filled in the Language in the box or if there is a mismatch in the Language filled in the box and the Language in which question paper is attempted.

Candidates are strictly advised not to write any personal identity e.g., Name, Roll No., Mobile No. Address, etc., inside the Answer Book. Otherwise their Answer Book **SHALL NOT** be evaluated.

Answer Parts running in more than 10% of the prescribed word limit will not be evaluated."

He stated that these Instructions were clearly inscribed in the Question and Answer Booklets, and were strictly and meticulously observed by most candidates who appeared in the said examination. Out of 33053 candidates, who appeared in Tier-III examination only 484 were found to have violated the Instructions mentioned above. He further submitted that Rohit Kumar (applicant No.1) and 25 other applicants of the OA, who were candidates in the Tier-III Examination of CGLE, 2016 violated the Instructions mentioned above and were rejected from selection process of the examination. He emphasized, that it is well settled principle of law that once a candidate has participated in any recruitment

examination, the terms and conditions/procedure of the examination cannot be questioned by him/her subsequently. In case, the applicants are given any kind of misplaced sympathy, the sanctity of the whole examination would be lost. Further, the SSC would be forced to reconsider all 484 candidates (including the 26 applicants in the current OA), which would lead to multiple litigation all over the country. The applicants, who are supposed to be mature adults, eligible for recruitment for most sought after important Group-B & C posts in the Government of India, have been negligent and deserve to be penalized for not conforming to the mandatory Instructions. He emphasized that the Three Judge Bench of the Hon'ble Supreme Court in the case of **Karnataka Public Service Commission and Others Vs. B.M. Vijaya Shankar and Others**, 1992 AIR 952 has categorically held that:-

“More important than this is that provisions attempting to infuse discipline in competitive to be conducted by the Commission cannot be construed with same yardstick as a provision in penal statutes. Moreover the Commission did not impose any penalty on the candidates. Their examination was not cancelled nor they were debarred from taking any examination conducted by the Commission for that year or any year, in future. Their marks in papers, other than those in which they were found to have acted in disregard of instructions were declared. The only action taken was that those answer books in which roll numbers had been written inside were not subjected to evaluation. In our opinion there was nothing, basically, wrong in it. The Commission did not treat it as misconduct. The action could not be termed as arbitrary. Nor it was abuse of power which could be corrected by judicial review.

Such instructions are issued to ensure fairness in the examination. In the fast deteriorating standards of honesty and morality in the society the insistence by the Commission that no attempt should be made of identification of the candidate by writing his roll number anywhere is in the larger public interest. It is well known that the first page of the answer book on which roll number is written is removed and a fictitious code number is provided to rule out any effort of any approach to the examiner. Not that a candidate who has written his roll number would have approached the examiner. He may have committed a bonafide mistake. But that is not material. What was attempted to be achieved by the instruction was to minimise any possibility or chance of any abuse. Larger public interest demands of observance of instruction rather than its breach."

He also cited the judgment of Hon'ble High Court of Madhya Pradesh in the case of **S.P. Singh Vs. UOI** [WP-11565/2005 (s)] dated 01.10.2013 wherein in para-7 the following has been held:-

"It has been held by the Supreme Court in the aforesaid case that even if the candidate has committed a bonafide mistake that is not material. The instructions having been violated, similar action taken has been upheld by the Supreme Court. The Learned Tribunal has based its finding on these principle only and we see no error in the findings recorded by the Tribunal having done so. Even in the case of Mukul Kumar (supra) relied upon by the learned Senior Counsel, that was a case where the facts were entirely different and the same will not help the petitioners. Similarly in the case of Mrs. Swati Satish Chitnis (supra) relied upon by the learned Senior Counsel for the petitioner, a perusal of the judgment rendered by the Tribunal in para 10 goes to show that the Railway Administration in the said case did not bring to the notice of the Tribunal any instructions, Rule or regulations which was circulated to the candidates in the examination indicating to them the effect of making any mark in the answer sheet. It was in view of the aforesaid that the Tribunal interfered into the matter. In the present case, the answer sheets and the instructions strictly prohibits mentioning of any mark or things in a unspecified place and as the petitioner have violated the instructions, we see no error in the order passed by the Tribunal warranting interference."

He further relied on the judgment of Hon'ble High Court of Punjab and Haryana at Chandigarh in the case of **Monika Yadav Vs. SSC & Anr.**, (CWP-168/2013) dated 09.04.2014 holding that:-

"In the present case, a condition was specifically mentioned that the candidates have to write Code No./Roll No./Ticket No./Name of the Examination/Date of Birth/Test Form Number at the relevant places in the OMR Answer Sheet and it was also mentioned that in case of incomplete coding of the details, zero marks will be awarded to the candidates. Moreover, whole of the process has been completed and to reopen the issue again, would not only prejudice the interest of the selected candidates but also the selection process cannot be finalized as not only the case of the present petitioner is there but more than 1500 candidates are also there to whom zero marks were awarded.

Hence, there is no merit in the contention raised by learned counsel for the petitioner and the present petition, being devoid of any merit, is hereby dismissed."

5.2 The learned counsel for the applicants, Sh. Luthra, pointed out that the decision of the Apex Court in the case of **Karnataka Public Service Commission and Others** (supra) as well as the other relied upon judgments, the facts were totally different than those of the present OA. The candidates in all those cases were guilty of violations by which their examination copies could have been identified. In the case of **S.P. Singh** (supra) the applicant has put a religious mark "OM" on top of the first page of the answer book, the other applicants had written Roll Nos. on top of the first page of the supplementary answer sheets. Resultantly, their papers were not evaluated. Hon'ble High Court of Madras in the case of **A.B. Natarajan Vs. The Secretary & Ors.** [WA Nos. 1063 and 1287 of 2009]

on 04.03.2011 had held that “**the crux of the allegation was that the selected candidates used colour pens, sketch pens and pencils etc., and also made certain marks contrary to the instructions issued by the TNPSC. It was, therefore, felt that other candidates had used religious symbol, such as, cross, Ohm, half moon**”, which could not be construed as irrelevant marking. In other words, in all those cases, the so called omissions were not technical in nature but were more in the category of adoption of unfair means by which their answer sheets could get identified.

6. We have carefully perused the record, and gone through the judgments cited by both sides. After giving thoughtful consideration to the matter, we feel that the issue cited by the respondents in the case of **Karnataka Public Service Commission and Others** (supra) is clearly distinguishable from the present case. The basis for rejection of the candidature of the applicants in the above cited judgment was that they had written their roll Nos. not only in the space provided on the cover page of the answer book, but on all the papers of the answer book, contrary to the Instructions. In the present OA the ground for rejection is that the candidates failed to mention the “medium/language or ticket numbers” in their answer books due to which their candidature was cancelled. We find that the issues involved in the present OAs are squarely covered by the

decision of a Coordinate Bench of this Tribunal in the case of **Avinash Chandra Singh & Ors.** (supra) and confirmed by the Hon'ble High Court of Delhi vide judgment dated 29.08.2017 in W.P. (C) No.6086/2017, wherein the similar claim of the applicants was considered and allowed by the Tribunal. The Tribunal in the case of **Avinash Chandra Singh** (supra) has held as under:

"8. Our conclusion is that judicial pronouncements are overwhelmingly in favour of the applicants. The mistakes or lapses committed by them were non-essential and not substantive. Cancellation of their candidature for these minor lapses was unwarranted. Enough material was available with the respondents to evaluate them despite the lapses committed by the applicants. If candidates are rejected on these non-essential grounds then the very objective of conducting the competitive examination, namely, to identify the most meritorious candidates for filling up the available posts would be defeated.

9. We, therefore, find merit in the submissions of the applicants and allow all these OAs. We direct the respondents to process the candidature of the applicants herein in case they are not ineligible for any other reason. No costs."

The Union of India filed appeal against the aforesaid order of the Tribunal in **WP (C) No.6086/2017** (supra). The Hon'ble High Court while affirming the decision of the Tribunal has held as under:

"11. We are, thus, of the view-for the reasons contained in our decision dated 10.08.2017 rendered in Writ Petition (C) No. 4829/2017, titled, "**Union of India & Ors. Vs. Sumit Kumar**" and WP(C) No. 5948/2017, titled, "**Union of India & Ors. Vs. Nitish Kumar**" that the decision of the Tribunal in the Original Application of the respondent i.e. O.A. No. 263/2017 is unexceptionable, and does not call for interference.

12. The writ petition is, accordingly, dismissed leaving the parties to bear their respective costs."

7. We are, therefore, of the considered view that the claim of the applicants herein is on all fours covered by the ratio of the aforesaid decision of the Tribunal in the case of **Avinash Chandra Singh & Ors.** (supra) as affirmed by the Hon'ble High Court. Accordingly, this OA is allowed observing that the mistakes or lapses committed by the applicants were non-essential and not substantive. Cancellation of their candidature for these minor lapses was unwarranted. Enough material was available with the respondents to evaluate them despite the lapses committed by the applicants. The respondents should be conscious of the fact that they are dealing with careers of young applicants. A mechanical or myopic application of instructions has to be avoided at all cost especially when the non-conformity of instructions is clearly procedural only and not pertaining to any allegation of malpractice or unfair means. If candidates are rejected on these non-essential grounds then the very objective of conducting the competitive examination, namely, to identify the most meritorious candidates for filling up the available posts would be defeated. The respondents are directed to process the candidature of the applicants and declare their result on the basis of pure merit list, if they are not found ineligible for any other reasons. The aforesaid exercise should be completed within a

period of three months from the date of receipt of a certified copy of this order. No costs.

8. With the disposal of this OA, MA-3553/2017 and MA-3554/2017 have become infructuous and are disposed of accordingly.

9. A copy of this order be placed in each case file.

(Praveen Mahajan)
Member (A)

(Raj Vir Sharma)
Member (J)

/Vinita/