

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

**OA-3057/2017
MA-4694/2017
MA-4695/2017**

Reserved on : 20.07.2018.

Pronounced on : 10.08.2018.

Hon'ble Ms. Praveen Mahajan, Member (A)

Hon'ble Mr. S.N. Terdal, Member (J)

1. Sh. Sumit Bhardwaj, 23 years
S/o Sh. Praveen Bhardwaj,
R/o H.No.D-125, Saraswati Nagar,
Jodhpur, Rajasthan.
2. Sh. Alugubelly Sri Charan Reddy, 22 years
S/o Sh. Alugubelly Narsi Reddy,
R/o H.No. 6-8-39/16/2, Adarsha Colony,
Nalgonda, Telangana-508001.
3. Sh. Rakesh Mittal, 26 years
S/o Sh. Rajkumar Mittal,
R/o H.No. 15, Block No.8,
Ground Floor, Spring Field Colony,
Sector-31, Faridabad, Haryana. Applicants

(through Sh. Ajesh Luthra, Advocate)

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-110003.
3. Sh. Ravi Yadav, 24 years
S/o Sh. Rajender Singh Yadav,

R/o RZ-35, West Krishna Vihar,
Najafgarh, New Delhi-110043.

4. Sh. Abhishek Kumar Pandey, 40 years
S/o Sh. Bijay Kumar Pandey,
R/o B-68, B-Block, 2nd Floor,
Kalkaji, New Delhi-110019.
5. Sh. Varun Kumar, 27 years
S/o Sh. Amresh Kumar,
R/o A-12A, Street No.2,
Meet Nagar, Delhi-110094.
6. Sh. Sourabh Kumar, 28 years
S/o Sh. Pawan Kumar,
R/o H-219, Naraina Vihar,
New Delhi-110028.
7. Sh. Ajay Ojha, 24 years
S/o Sh. Vinay Ojha,
R/o N-76/285, New Om Nagar,
Street No. 3, Rana Pratap Bagh,
Delhi-110007.

.... Respondents

(through Sh. Krishan Kumar, Advocate)

O R D E R

Ms. Praveen Mahajan, Member (A)

Briefly stated, the facts of the current O.A. are that in response to an advertisement dated 13.02.2016 published in Employment News/Rozgar Samachar for filling up various posts, the applicants applied, and participated in Tier-I examination conducted from August, 2016 to September, 2016. The respondents issued the marks statement of the candidates towards Tier-I examination on 15.11.2016. The applicants obtained higher merit position and have also been declared qualified in Tier-I on 08.11.2016 for appearing in

Tier-II. Tier-II examination was conducted from November 2016 to December 2016. The candidates who qualified in Tier-II examination were allowed to appear in Tier-III examination. On 02.03.2017, the respondents issued the marks statement of Tier-II in which also the applicants obtained high merit position. Thereafter, the applicants were called for Tier-III examination, which was conducted on 19.03.2017. The applicants participated in the said examination. It is submitted that while the Tier-I & Tier-II examinations were an objective type multiple choice question paper, the Tier-III examination was of descriptive type. The applicants submit that in Tier-III also they have done fairly well. Subsequent to Tier-III examination, the applicants realized that they have inadvertently committed an error by not mentioning their medium, ticket no. in the answer sheet. The applicants made written representations dated 20.03.2017 and 31.03.2017 to the authorities for necessary rectification in their answer sheets towards Tier-III examination where they had forgotten to mention their medium and other particulars in the answer sheets.

2. Thereafter, the respondents called the applicants for document verification, which was conducted from April 2017 to May 2017. The applicants participated in the document verification process on the basis of the admit cards issued to them. The applicants and other candidates met the authorities at different

point of times after great efforts, for rectification of these errors. However, nothing has been done till now. The applicants submit that it is highly unfair on part of the respondents to reject their candidature because of some inadvertent error mentioned in some small particulars in the answer sheet. The applicants submit that this is not a case of impersonation or deceitful means or use of unfair means. Despite repeated representations, the respondents published the marks statement on 17.08.2017 rejecting their candidature due to errors committed by them in mentioning their medium, ticket no.

3. Aggrieved by the action of the respondents, the applicant has filed the current O.A. seeking the following reliefs:-

- “(a) Quash and set aside the impugned action/order of the respondents rejecting the applicant’s 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 applicant’s 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.”

4. In support of the reliefs claimed, the applicants have raised the following grounds:

- i) The impugned action of the respondents is illegal, arbitrary and unjustified and hence liable to be set aside.
- ii) Before rejecting the candidature of the applicants, it was incumbent upon the respondents to issue a show cause notice to the applicants calling upon them to file their reply and consider the same before taking a decision.
- iii) The aim of the respondents should have been to select the meritorious persons for the purpose of appointment rather than harping on technical grounds which cannot be countenanced in law. The error, if any, is an inadvertent omission on the part of the applicants concerned due to examination related stress and hurry.
- iv) The applicants should not be made to suffer for an inadvertent error, if any.
- v) The Hon'ble High Court of Punjab and Haryana in the case of **Rohit Kumar v. Union of India & Anr.** [W.P. (C) No.13720/2012], had issued directions to the State to accept the candidature of the candidate who had wrongly darkened his Roll No. in the OMR sheet, whereas in letters he/she has rightly mentioned his Roll No. but because of the error he/she was awarded zero marks.
- vi) The Hon'ble High Court of Rajasthan in **Anil Kumar v. State of Rajasthan & Ors.**, [C.W.P No.657/2012 (S.B.)] had condoned

the minor error committed by the candidate while filling the OMR sheet where he/she did not mention his gender in the OMR Sheet. The Hon'ble High Court was pleased to direct the State to permit the petitioner before it to rectify the error in the OMR sheet and to examine the OMR sheet on merit.

(vii) Principal Bench of CAT in OA-2063/2017 (Ravindra Malik Vs. SSC & Ors.) on 13.02.2013 directed the State to consider the case of the applicant to the post of Inspector (Central Excise) or to any other post as per his merit after condoning the mistake committed by him where he had wrongly coded his ticket No. in the OMR sheet due to which he was awarded zero marks.

(viii) Principal Bench of CAT in **OA-1802/2012** (Arvind Kumar Kajla Vs. UOI & Ors.) has condoned the mistake committed by the candidate where he forgot to code his Roll No. and was awarded zero marks for the said mistake.

(ix) Hon'ble High Court of Rajasthan in **CWP-11269/2011** (Subhanta Devi Vs. State of Rajasthan) has held that minor omissions should not come in the way of evaluation of the OMR sheets of the candidates.

(x) Hon'ble High Court of Delhi in **WP-1004/2012** (Neeraj Kumar) has held that in the absence of any allegation of impersonation, not signing the application in block capital

letters as per instructions of the recruiting agency cannot be a ground to reject the candidature and such directions are merely directory and not mandatory.

5. Short reply has been filed by respondent No.2 in which without disputing the facts of the case, it has been stated that the candidates, who have been selected in Combined Graduate Level Examination, 2016 have already been allocated to various Central Government Departments/Establishment and their dossiers have also been sent. They further state that instructions were inscribed on the answer book issued to each candidate stating 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 mismatch 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.

6. The respondents aver that the applicants in the OA violated the instructions mentioned above. The candidature of applicant No.1 (Sh. Sumit Bhardwaj) and applicant No. 2 (Sh. Algubelly Sri Charana Reddy) was rejected as they did not mentioned the medium/language on the answer sheet of Tier-III of said Examination, whereas the candidature of applicant No. 3 (Sh. Rakesh Mittal) was rejected as he mentioned his wrong ticket number on the answer sheet. Due to these mistakes, these three applicants were awarded zero marks. It is contended that if the applicants are shown any misplaced sympathy, the sanctity of the whole Examination process will be lost, and would have a cascading effect leading to multiple litigations all over the country.

7. Reliance placed by the applicant in the case of **Avinash Chandra Singh & Ors.** (supra) pertains to Junior Engineers Exam whereas the instant case relates to Combined Graduate Level Examination, and the minimum essential qualification required is also different. Further, Hon'ble Supreme Court in the case of **Karnataka Public Service Commission and Others Vs. B.M. Vijaya Shankar and Ors.** decided on 14.02.1992 has ruled 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."

8. It has been contended that the principles of natural justice are not applicable in the competitive examinations and no opportunity of hearing can be afforded to such candidates, who have violated the instructions. It is settled law that once a candidate has participated in any recruitment examination then the terms and conditions/procedure of the examination cannot be questioned. In this regard, the respondents have relied upon the following judgments:-

- (i) **Dr. G. Sarana Vs. University of Lucknow and Ors.**, (1976) 3 SCC 585.
- (ii) **Madan Lal Vs. State of J&K**, 1995(2)JT 291.
- (iii) **UOI & Ors. Vs. Vinodh Kumar and Ors.**, (2007) 8 SCC 100.
- (iv) **Bedanga Talukdar Vs. Saifudaullah Khan**, (2011) 12 SCC 85.
- (v) **Vijendra Kumar Verma Vs. Public Service Commission, Uttarakhand**, (2011) 1 SCC 150.
- (vi) **K. Manjusree Vs. State of A.P. and Anr.**, (2008) 3 SCC 512.
- (vii) **Dr. M. Vennila Vs. Tamil Nadu Public Service Commission**, 2006 LAB. I.C. 2875.
- (viii) **Indu Gupta Vs. Director, Sports Punjab, Chandigarh**, AIR 1999 P&H 319 (FB).
- (ix) **T.N. Public Service Commission Vs. A.B. Natarajan**, (2014) 14 SCC 95.

Thus, the respondents have prayed that this O.A. be dismissed with costs.

9. In reply filed on behalf of intervener-respondents No. 3 to 7, it is submitted that the applicants have not come with clean hands and their prayer for relief is a blatant example of misuse of process of law. They mention that instructions in an examination have a force of law as held by Hon'ble Madras High Court in **CWP-32383/2005** (Dr. M. Vennila Vs. Tamil Nadu Public Service Commission) on 12.06.2006 in which the following has been held:-

"25. In the earlier part of our order, we have extracted relevant provision, viz., Instructions, etc. to Candidates as well as the Information Brochure of the Tamil Nadu Public Service Commission, we hold that the terms and conditions of Instructions, etc. to Candidates and Information Brochure have the force of law and have to be strictly complied with. We are also of the view that no modification / relaxation can be made by the Court in exercise of powers under [Article 226](#) of the Constitution of India and application filed in violation of the Instructions, etc. to Candidates and the terms of the Information Brochure is liable to be rejected. We are also of the view that strict adherence to the terms and conditions is paramount consideration and the same cannot be relaxed unless such power is specifically provided to a named authority by the use of clear language. As said at the beginning of our order, since similar violations are happening in the cases relating to admission of students to various courses, we have dealt with the issue exhaustively. We make it clear that the above principles are applicable not only to applications calling for employment, but also to the cases relating to the admission of students to various courses. We are constrained to make this observation to prevent avoidable prejudice to other applicants at large."

10. The respondents also state that the current O.A. is hit by principles of natural justice and the same is likely to be rejected on this ground alone since the applicants have not been made the necessary parties in the O.A. They further aver that the prayers made

in the O.A. are vague and are contrary to law declared by Hon'ble Supreme Court in the case of **Karnataka Public Service Commission & Ors. Etc. Vs. BM Vijaya Shankar & Ors.**, 1992 AIR 952, wherein it has been held that:-

"He may have committed a bona fide mistake. But that is not material. What was attempted to be achieved by the instruction was to minimize any possibility or chance of any abuse. Larger public interest demands of observance of instruction rather than its breach."

This decision, they submit has been followed in the following cases:-

- (i) **Yoonus Panambran Vs. Secretary Kerala Public Service Commission** (WA No. 2487/2009) decided by Hon'ble Kerala High Court.
- (ii) **A.B. Natarajan Vs. The Secretary Tamil Nadu Public Service Commission** (WP No. 30885/2004) decided on 10.07.2009 by Hon'ble High Court of Judicature at Madras.
- (iii) **Vikas Kumar Verma and 18 others Vs. State of U.P. and 6 Ors.** (Special Appeal No. 437/2015) decided on 09.07.2015 by Hon'ble High Court of Judicature at Allahabad.
- (iv) **Monika Yadav Vs. SSC & Anr.**, (CWP No. 168/2013) decided on 09.04.2014 by Hon'ble High Court of Punjab and Haryana at Chandigarh.
- (v) **Saket Kumar and 3 Ors. Vs. State of U.P. and 2 Ors.** (Writ-A No. 67782 of 2014) decided on 29.05.2015 by Hon'ble High Court of Judicature at Allahabad.
- (vi) **Smt. Pushpa Kumari Vs. The State of Bihar & Ors.** (Civil Writ Jurisdiction Case No. 17382/2014) decided on 27.01.2015 by Hon'ble Patna High Court.

11. The respondents contend that the applicants have no case on merit as well. The instructions contained in the advertisement clearly

state that Answer Books not bearing candidate's name, ticket No., Roll No. and signature wherever required will not be evaluated and such candidates would be awarded zero marks. The candidates were also to be awarded zero marks if they have not filled in the language in the box or if there was a mismatch in the language filled in the box and the language in which question paper is attempted. These instructions were clearly inscribed in the question and answer booklets in bilingual form i.e. both in English and Hindi and were strictly and meticulously observed by most of the candidates. Out of 33053 candidates, who appeared in Tier-III examination only 484, i.e. 1.46%, were found to have violated the instructions, which were clear and unambiguous and were followed by majority of the candidates.

12. The decision of this Tribunal in OA No.263/2017 which was decided along with OA No.215/2017 and OA NO.391/2017 is distinguishable and holds no similarity to the instant case on the grounds that the final result was not declared in that case and no individual rights were violated. The educational requirement in the present case is Graduate and a graduate candidate is considered mature enough as compared to a 10+2 or a diploma holder etc. Further, the observation made by the Hon'ble High Court of Delhi in W.P. (C) No.4829/2017 also distinguishes the present case from the referred case.

13. During the course of hearing, both the learned counsels vehemently reiterated the issues already stated in the O.A. and the counter reply, respectively. We have given a thoughtful consideration to the pleadings made, gone through the citations relied upon by both sides and perused the record.

14. The three applicants before us are candidates of Combined Graduate Level Examination, 2016. The candidature of the two applicants, namely, The candidature of applicant No.1 (Sh. Sumit Bhardwaj) and applicant No. 2 (Sh. Algubelly Sri Charana Reddy) was rejected as they did not mention the medium/language on the answer sheet, whereas the candidature of applicant No. 3 (Sh. Rakesh Mittal) was rejected as he mentioned his wrong ticket number on the answer sheet. The respondents have awarded them zero marks due to their not indicating the medium and the ticket No. on the answer sheets. Both sides have relied upon a catena of judgments in support of their contentions. However, each case has to be adjudicated based upon the specific facts and that is what we endeavour to do.

15. The applicants have relied upon the decision of the Hon'ble High Court of Delhi in WP(C)-4829/2017 (**UOI & Ors. Vs. Sumit Kumar**) dated 10.08.2017 in which the omission committed by the candidate was that he had failed to mention the medium i.e. Hindi or English. It

was held by the Hon'ble High Court that the said omission was inconsequential and was not a valid justification for not evaluating the answer sheet of the candidate and granting them zero mark. Before adjudicating the issue finally, their Lordships have discussed similar situations where the authorities had rejected the candidature of the applicants on flimsy grounds and where subsequently their candidature was restored by intervention of Courts. In para-12 of the judgment, it has been mentioned that:-

"12. The Andhra Pradesh High Court in Guduru Raja Surya Praveen (supra) held that non-substantive and non-material irregularities should not result in denying benefit of evaluation of answer sheet of a candidate. Paras-7 to 10 of this judgment have been relied upon by the Tribunal, which read as follows:-

"7. However, it is not the same with regard to entering the test form number, ticket number and roll number. The first respondent has entered his ticket number, roll number and also the test form number very accurately against the respective columns. There is no difficulty or denying of this fact. There is also no denying the fact that he has thickened the appropriate circle with regard to all the digits of ticket number and roll number. Only with regard to test form number while the initial four circles have been accurately thickened, the last two columns relating to thickening the letter P and digit 3 were left without being thickened. **It is so obvious that there was lapse of concentration on the part of the first respondent in omitting to thicken two out of six columns relating to the test form number. Therefore, the failure to thicken two relevant circles with regard to the test form number namely letter P and digit 3 will not in any manner materially or substantially alter or cause hardship in evaluating the answers which have been furnished for the questions 1 to 200. At best, it would require a little more time to be spent on the part of the concerned at the stage of tabulating the marks secured by the respective candidates. But in no manner, it will impact the process of evaluating the answer sheets. We are, therefore, of the opinion that such non-substantive and non-material irregularities shall not result in denying the benefit of evaluating of the answer sheet of a candidate.**

8. One should not loose sight of the fact that the primary concern and aim of the Staff Selection Commission was to

select the most meritorious candidate amongst the competing candidates. With a view to maintain the accuracy and integrity of the process of evaluation of the answer sheets, instead of undertaking evaluation manually the process of errs furnished for questions 1 to 200, the failure of any candidate to thicken any other column relating to the test form number, ticket number or roll number will not come in the way or cause any hindrance. For instance, a candidate may not be knowing answers for certain number of questions and hence he may not chosen to take a chance and may not have thickened any of the four options on the answer sheet for such questions. That will not come in the way of the computer reading the rest of the questions answered by him and awarding marks for the correct answers furnished by him. For the failure to thicken all the circles of the ticket number, at best, the evaluated marks may not automatically be posted in the record relating to the respective candidates. It might require a verification by one concerned or the other of such an answer sheet. But, that is no reason for denying the evaluation itself.

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....."

(emphasis supplied)

13. In **Rohit Kumar** (supra), the Punjab & Haryana High Court was dealing with a case where, while filling in OMR (Optical Mark Recognition) sheet, the petitioner had wrongly darkened the roll

number, although in letters he had rightly filled his roll number. The Court held that for such mistake, his career should not be jeopardized.

14. In **Anil Kumar** (supra), the candidature of the applicant had been rejected because he had failed to mention his gender in the OMR sheet. The Rajasthan High Court allowed his Writ Petition, and directed the respondents to examine him on merits.

15. In **Subhanta Devi** (supra), the applicants had committed a minor mistake relating to darkening the circles pertaining to their date of birth. The respondents were directed to evaluate the OMR sheets of the applicants and consider their cases for appointment.

16. In **Sandeep Kumar** (supra), the candidature of the respondent was upheld by the Hon'ble Supreme Court, taking a lenient view of the situation and holding that at young age, people often commit indiscretions, and such indiscretions can often be condoned."

16. It is a fact that the applicants failed to mention the medium of examination and the ticket number but such inconsequential errors, committed by candidates who are young and just entering adulthood, cannot and should not carry such grave consequences. In paras-20 & 21 of **Sumit Kumar** (supra), their Lordships observed that:-

"20. The examining body is examining and evaluating human beings. The Petitioner is undertaking the task by employing human beings to conduct the examination; sort the answer scripts; have them evaluated; compile the result and; declare the same. Since the Petitioner is undertaking their tasks by employing human beings-who necessarily have to be persons of normal and reasonable intellect, they cannot shirk their responsibility of using their common sense, and they cannot work mechanically-like machines. The Petitioner cannot say that its personnel - undertaking the sorting of answer scripts for the purpose of evaluation according to the medium/ language used by the candidate, would not even move their little finger to flip a couple of pages of the answer script, to find out what medium/ language has been used by the candidate, in case the candidate has, inadvertently, failed to indicate on the cover sheet the medium/ language used by him. This completely "hands-off" approach of the Petitioner cannot be appreciated, considering the fact that it is entrusted with the task of evaluating young aspirants vying for public employment. Such indifference on the part of the Petitioner not only mars the promising career of a young and deserving aspirant, but may also deprive the employer of a worthy, deserving and meritorious candidate.

"21. Thus, it is clear to us that 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 Petitioner itself. All that they had to do was, to turn over a couple of pages and see for themselves the language in which the answer sheet had been answered."

The clear intent behind the said order, and quite a few others, is to ensure that meritorious candidates do not miss out an opportunity of earning their livelihood merely because of an inadvertent lapse committed on account of examination stress. The omission of the three candidates in this OA, falls in the same category. A small inconsequential lapse of not mentioning of the ticket number or not mentioning of the medium etc. have been held to be unimportant errors, and consequential relief has been granted to the applicants in all such cases applying the rationale that the candidates are not being tested for their skill in filling up the form but the intention is to select the best and the most meritorious candidates on the basis of answers given by them in the examination.

17. The respondents must be sensitive to the fact that they are dealing with careers of young aspirants and if the lapse committed by the candidates does not come in the category of impersonation, cheating or use of unfair means etc., he/she should not be so harshly

penalized. A mechanical or myopic application of instructions has to be avoided at all cost especially when such non-conformity of instructions is clearly procedural and not pertaining to any allegation of malpractice or unfair means.

18. Another point raised by the learned counsel for the respondents Sh. Krishan Kumar during the course of hearing was that the examination process has already attained finality, and any directions in favour of the applicants would affect other already selected candidates.

19. It would be relevant to mention here that the three applicants in the current OA, were protected by interim directions of the Tribunal dated 05.09.2017 wherein it was ordered that:-

“M.A. No. 3236/2017 filed for joining together is allowed.

O.A. No. 3057/2017

Learned counsel for the applicant has submitted that this case is similar to OA No. 2964/2017 in which following order was passed :-

"MA No. 3104/2017 filed for joining together is allowed.

OA No. 2964/2017

The applicants were candidates for CGLE, 2016. Their Tier 3 papers have not been evaluated on the grounds that they have either not filled or incorrectly filled medium/language/ticket number. Learned counsel for the applicants submitted that this issue has been considered by this Tribunal in OA No. 215/2017 along with OA No. 263/2017 decided on 21.02.2017 wherein this Tribunal has held that rejection of candidature on flimsy grounds was unwarranted. The aforesaid decision has also been upheld by Hon'ble High Court of Delhi. He also submitted that when the aforesaid OAs were filed before this Tribunal on 23.01.2017, the following interim directions were given:

"Heard the learned counsel for the applicants.

MA No.273/2017 in O.A. No.263/2017

2. MA No.273/2017, filed, for joining together, is allowed.

3. It is submitted that all the applicants, in pursuance of the Notification published by the respondents, participated in the Written Examination Paper-I and Paper-II for selection to the post of Junior Engineers (Mechanical, Electrical, Quantity Surveying and Contract) Examination, 2015. It is further submitted that so far as the Paper-I of the written examination is concerned, the applicants' results were declared and their names were shown comparatively in higher position whereas in Paper-II, impugned Annexure A/1 is concerned, though marks of certain candidates were declared but so far as the applicants are concerned it was shown as rejected. It is submitted that even if the applicants secured less marks, the same should be shown but should not be rejected completely, without giving any reasons for the said rejection.

4. Shri Gyanender Singh, learned counsel accepts notice and seeks time to file reply.

5. List on 30.01.2017. In the circumstances and in view of the prima facie case made out, the respondents shall not issue any appointment letters till the next date.

6. Order by **DASTI.**

He seeks similar directions in this OA as well.

Accordingly, issue notice to the respondents. Learned counsel Sh. C. Bheemanna accepts notice on behalf of all the respondents. He shall make submissions on interim relief on the next date of hearing. List on 11.09.2017.

In the meanwhile, no appointment letters pursuant to the aforesaid examination be issued. Order **Dasti.**"

2. He seeks similar directions in this O.A. as well. Sh. Krishna Kumar has appeared on advance notice and submitted that the applicants have approached the Tribunal without making a representation to the respondents. Therefore, they cannot be treated as aggrieved by the orders of the Staff Selection Commission.

3. We have considered the aforesaid submissions. In our opinion, the facts in this OA are similar to OA No. 2964/2017 and accordingly, we pass similar orders in this case as well.

4. Issue notice. Shri Krishna Kumar, learned counsel accepts notice on behalf of respondents. He shall make submissions on interim relief on the next date of hearing. List on 11.09.2017. In the meanwhile no

appointment letters pursuant to the aforesaid examination be issued.

5. Order by **DASTI.**"

In view of these interim directions, the respondents could not have issued any appointment letters to other candidates. Thus, if the candidature of the applicants is reconsidered, it would not disrupt the selection process.

20. In view of the facts discussed above, the impugned order of the respondents rejecting the applicants candidature vide their decision dated 17.08.2017 is quashed and set aside. We direct the respondents to evaluate the answer sheets of the applicants for Tier-III along with other candidates. In case, they are found fit and eligible on merit, they may be placed in the relative merit list and their candidature be processed accordingly, as per law. The O.A. is accordingly allowed. No costs.

(S.N. Terdal)
Member (J)

(Praveen Mahajan)
Member (A)

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