

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Applications Nos. 200/00700/2017,882/2017 &
200/76/2018, 102/2018, 123/2018 & 218/2018

Jabalpur, this Thursday, the 4th day of October, 2018

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

(1) ORIGINAL APPLICATION NO. 200/00700/2017

1. Sandeep Kumar, aged 24 years, S/o Sh. Naresh Kumar,R/o V.P.O. Badesra, Distt. Bhiwani, Pin-127031 (Haryana)
2. Sunil Aged 26 years, S/o Sh. Virendra Singh,R/o Vill. Ramgarh, P.O. Bibipur, Distt. & Tehsil Jind (Haryana)
3. Bintu, aged 21 years, S/o Sh. Balwan Singh,R/o Vill. Badesra, Distt. & Tehsil Bhiwani (Har.)
4. Praveen Kumar, Aged 27 years, S/o Sh. Subhash Chander,R/o Vill. Ramgarh, P.O. Bibipur, Distt. & Tehsil Jind (Haryana)
5. Dinesh Kumar Saratte, Aged 37 years, S/o Sh. Mehtab Saratte, R/o Vill. New Pench Velly Chife House Parasia, Tehsil Purasia,Distt. Chhindwara (M.P.)
6. Sonu Singh, Aged 26 years, S/o Sh. Om Prakash,R/o VPO Ramsara, Distt. & Teh Fatehabad (Haryana)
7. Parvinder Kumar, Aged 26 years, S/o Sh. Pawan Kumar,R/o V.P.O. Birohar Tehsil Matanhail, Distt. Jhajjar, Pin 124106
8. Jugal Kishor Meena, Aged 29 years, S/o Sh. Mausariya Meena, R/o Vill. Hanuman Pura, Post Kashipura, Tehsil Karauli,Distt. Karauli (Rajasthan)
9. Ramkesh Meena, Aged 31 years, S/o Shri Narayan Meena, R/o VPO Sirsali, Tehsil Bamanws, Distt. Sawai Madhopur (Rajasthan)

10. Vijay Kumar Meena, Aged 26 years, S/o Sh. Ramraj Meena,R/o Vill. Saray, Post Gandal, Teh Bamanwas, Distt. Sawai Madhopur (Rajasthan)

11. Jay Prakash Meena, Aged 22 years, S/o Sh. Chetram Meena, R/o Vill. & Post Santna, Tehsil Mahwa, Distt. Dausa (Rajasthan)

12. Shivam Goswami, Aged 23 years, S/o Sh. Ram Babu Goswami, R/o Sagar Road, Near DR. L.C. Chaurasiya, Chhatarpur (M.P.)

13. Pushpendra Shukla, Aged 26 years, S/o Sh. Hari Shankar Shukla, R/o Gayatri Colony, Ward No. 11, Nowgong, Distt. Chhatarpur (MP)

14. Vibhav Chourasiya, Aged 22 years, S/o Sh. Brijlal Chourasiya, R/o VPO Chandra Tehsil Lidhora, Distt. Tikamgarh (MP)

15. Diwan Singh, Aged 27 Years, S/o Sh. Hambir Singh, R/o Vill Nagla Arjun, PO Sonkh Khera, Tehsil Mahavan, Mathura (UP)

16. Dharmender Sah, Aged 30 years, S/o Sh. Kamal Sah, R/o D-68 Gali No. 9, Jai Vihar PH-III, Najafgarh, New Delhi 110043

-Applicants

(By Advocate –**Shri K.C.Ghildiyal**)

V e r s u s

1. Union of India, through the Secretary, Ministry of Communications & Information Technology, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi

2. The Additional Director General (DE), Department of Posts, (DE Section), Dak Bhawan, Sansad Marg, New Delhi-I

3. The Chief Post Master General,M.P. Circle, Bhopal (MP)

-Respondents

(By Advocate –**Shri D.S.Baghel**)

(2) ORIGINAL APPLICATION NO. 200/00882/2017

1. Dayaram Meena, S/o Shri Ramhari Meena,Aged about 30 years, R/o Village Khirkhidi, PO Manderu, Tehsil Todabhin, District Karauli (Rajasthan) Pin Code 321611, Mob. No. 9407594084

2. Sarla Devi W/o Shri Ashok Kumar Singh, Aged about 28 years,
R/o Village & Post Badesra, Tehsil & District Bhiwani (Haryana),
Pin code 127031. Mob. No:- 8818872246 **-Applicants**

(By Advocate –**Shri K.C.Ghildiyal**)

V e r s u s

1. Union of India, through the Secretary, Ministry of
Communications & Information Technology, Department of Posts,
Dak Bhawan, Sansad Marg, New Delhi, Pin code 110011

2. The Additional Director General (DE), Department of Posts,
(DE Section), Dak Bhawan, Sansad Marg, New Delhi, Pin code
110011

3. The Chief Post Master General, M.P. Circle, Bhopal (MP), Pin
code 462012 **-Respondents**

(By Advocate –**Shri S.P.Singh**)

(3) ORIGINAL APPLICATION NO. 200/00076/2018

1. Shiv Kumar Meena, S/o Shri Govind Sahay Meena, Aged about
28 years, R/o Village & Post Khandeep Tehsil, Wazirpur, District
Sawai Madhopur (Rajasthan), Pin code 322205

2. Tej Ram Meena, S/o Shri Mangal Ram Meena, Aged about 28
years, R/o Village & Post Dhawan, Tehsil Todabhim, District
Karauli (Rajasthan), Pin Code 322213

3. Ram Prakash Meena, S/o Shri Bharosi Meena, Aged about 22
years, R/o Village Kaimkacch, Post Rodhai, Tehsil Mandrayl,
District Karauli (Rajasthan), Pin Code 322251

4. Ajay Kumar Meena, S/o Shri Neemee Chand Meena, Aged
about 24 years, R/o Village Gurli, Tehsil Nadoti, District Karauli
(Rajasthan) Pin Code 322204

5. Bajrang Ram Meena, S/o Shri Bhagwan Ram Meena, Aged
about 27 years, R/o Village & Post Meghsar, District
Churu(Rajasthan) Pin Code 331302

6. Balkishan Meena, S/o Shri Puran Mal Meena, Aged about 25 years, R/o Sedpada Village & Post Hurla, Tehsil Mahwa, District Dausa (Rajasthan) Pin Code 321608
7. Sundar Lal Meena, S/o Shri Chhote Lal Meena, Aged about 25 years, R/o Village Bhuleri, Tehsil Reni, District Alwar (Rajasthan) Pin Code 301409
8. Mayaram Meena, S/o Shri Pukhraj Meena, Aged about 29 years, R/o Village Koli Premapura, Post Piplai, District Sawai, Madhopur, (Rajasthan), Pin Code 322214
9. Babulal Meena, S/o Shri Bharat Lal Meena, Aged about 24 years, R/o Khothi Walo Ki Dhani, Village Sirasali, Post Naoli Chauri, District Sawai Madhupur (Rajasthan), Pin Code 322214
10. Khubiram Meena, S/o Shri Kishan Meena, Aged about 28 years, R/o Village & Post Hudla, Tehsil Mahwa, District Dausa (Rajasthan), Pin Code 321608
11. Satish Meena, S/o Shri Harsaya Meena, Aged about 24 years, R/o Village Khohra nanadsingh, Po. Khonchpuri Tah Mahwa, District Dausa, Pin 321608
12. Shyam Sundar Maharshi, S/o Shri Hari Prasad Maharshi, Aged about 25 years, R/o Village & Post Parla Khalsa, Tehsil Todabhim, District Karauli (Rajasthan), Pin Code 321610
13. Akshay Kumar Meena, S/o Shri Bachan Singh Meena, Aged about 20 years, R/o Village Ranipura, P.O. Konder, District Karauli (Rajasthan), Pin Code 322241
14. Radhey Meena, S/o Shri Makhan Lal Meena, Aged about 29 years, R/o Village & Post Baroli, Tehsil Gangapur City, District Sawai Madhupur (Rajasthan) Pin Code 322219
15. Ganesh Pal Meena, S/o Shri Hukum Chand Meena, Aged about 27 years, R/o Village and Post Fulwara, Tehsil Bamanwas, District Sawai Madhupur (Rajasthan), Pin Code 322214
16. Amar Singh Meena, S/o Shri Sualal Meena, Aged about 24 years, R/o Village & Post Langra, Tehsil Mandryal, District Karauli, (Rajasthan), Pin Code 322242

17. Ravikant Meena, S/o Shri Ramcharan Meena, Aged about 26 years, R/o Village Silpura, Post Gudla, District Karauli (Rajasthan) Pin Code 322241

18. Nahar Singh Meena, S/o Shri Amar Singh Meena, Aged about 24 years, R/o Village Ranglal Ka Pura, Post Todabhim, Tehsil Todabhim, District Karauli (Rajasthan) Pin Code 431611

-Applicants

(By Advocate –**Shri K.C.Ghildiyal**)

V e r s u s

1. Union of India, through the Secretary, Ministry of Communications & Information Technology, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi, Pin Code

2. The Additional Director General (DE), Department of Posts, (DE Section), Dak Bhawan, Sansad Marg, New Delhi, Pin Code

3. The Chief Post Master General, M.P. Circle, Bhopal (MP), Pin code 462012

-Respondents

(By Advocate –**Shri S.P.Singh**)

(4) ORIGINAL APPLICATION NO. 200/00102/2018

1. Monu S/o Sh. Phool Kumar Aged about 21 years, Resident of VPO Rajpura Tehs and Dist. Jind (Haryana)

2. Manoj Kumar S/o Sh. Suraj Bhan, Aged about 24 years, Resident of VPO Harita Tehs and Dist. Hisar (Haryana)

3. Sumit Kumar S/o Sh. Rotash Kumar Aged about 26 years, Resident of Dhani Peer Wali, Hansi, Hisar (Haryana)

4. Sunil S/o Ramphal, Age 27 yrs. R/o Bhagana Hansi, Hisar (Haryana)

5. Sandeep Kumar S/o Vijay Kumar Aged about 24 years, Resident of Dhani Peer Wali, Hansi, Hisar (Haryana)

6. Sonu, S/o Balwan, Aged about 22 years, Resident of V.P.O. Pali, Teh. Narnaund, Hisar (Haryana)

7. Monu Saini, S/o Sube Singh, Aged about 26 years, Resident of 191/22, Maaliya Mandi, Hansi, Hisar (Haryana)
8. Amit, S/o Sh. Kashmir, Aged about 20 years, Resident of VPO Rajpura Tehs and Dist Jind (Haryana)
9. Manjeet S/o Mahipal, Aged about 27 years, Resident V.P.O. Hasanghar, Barwala, Hisar (Haryana)
10. Lovekesh Yadav, S/o Hawa Singh, Aged about 24 years, Resident of Dhani Piran, Hansi, Hisar (Haryana)
11. Sonu, S/o Sh. Phool Kumar Aged about 20 years, Resident of VPO Rajpura Tehs and Dist Jind (Haryana)
12. Shakti S/o Sh. Dalbir Singh, Aged about 27 years, Resident of VPO Rajpura Tehs and Dist Jind (Haryana)
13. Anand Kumar S/o Sh. Satbir Singh Aged about 25 years, Resident of V.P.O. Kungar, Teh. Bawani Khera, Dist. Bhiwani (Haryana)
14. Anil Kumar S/o Sh. Ramesh Chander Aged about 28 years, Resident of VPO Rajpura Tehs and Dist. Jind (Haryana)
15. Anoop S/o Diwan Singh, Aged about 21 years, Resident of Dhani Shakari, Hansi, Hisar (Haryana)
16. Krishan Kumar S/o Sh. Chander Bhan, Aged about 32 years, Resident of Dhani Peer Wali Hansi, Hisar (Haryana)
17. Pankaj S/o Sh. Jai Bhagwan, Aged about 21 years, Resident of VPO Sulchani Tehs Narnaund, Dist Hisar (Haryana)
18. Binder S/o Sh. Dhup Singh, Aged about 30 years, Resident of VPO Koth Kalan Tehs Narnaund Dist. Hisar (Haryana)
19. Deepak Kumar, S/o Sh. Rajendra Singh, aged about 30 years, Resident of Dhani Peer Wali, Hansi, Hisar (Haryana)
20. Praveen Kumar S/o Sh. Mahendra Singh, Aged about 20 years, Resident of V.P.O. Puthi Samain, Hansi, Hisar (Haryana)

21. Kuldeep Singh S/o Sh. Kitab Singh Aged about 28 years, Resident of VPO Koth Kalan Tehs Narnaund, Hisar (Haryana)
22. Navdeep S/o Sh. Satbir Singh Aged about 25 years, Resident of VPO Khapran Tehs, Narwana Jind (Haryana)
23. Rakesh Kumar S/o Rajendra Kumar , Aged about 22 years, Resident of Dhani Peer Wali, Hansi, Hisar (Haryana)
24. Vipin Kumar S/o Pratap Singh, Aged about 28 years, Resident of Dhani Kumharan, Hansi, Hisar (Haryana)
25. Mandeep S/o Sh. Telu Ram, aged about 23 years, Resident of VPO Khapran Tehs Narwana, Dist Jind (Haryana)
26. Sandeep Nain, S/o Sh. Pala, Aged about 22 years, resident of VPO Danoda Kalan, Tehs. Narwana Dist Jind (Haryana)
27. Manoj Kumar S/o Rajender Kumar, aged about 24 years, Resident of Dhani Piran Hansi, Hisar (Haryana)
28. Naresh Kumar S/o Sh. Dalip Singh, Aged about 29 years, Resident of VPO Danoda Kalan Tehs Narwana Dist. Jind (Haryana)
29. Sumit S/o Ved Prakesh Aged about 24 years, resident of Dhani Piran, Hansi, Hisar (Haryana)
30. Rammehar Singh, S/o Sh. Wazir Singh, aged about 31 years, Resident of VPO Sulhera, Tehs Narwana Dist Jind (Haryana)
31. Balvinder S/o Chandi Ram, Aged about 23 years, Resident of V.P.O. Pali, Teh,Narnaund, Hisar (Haryana)
32. Rakesh Kumar Meena, S/o Sh. Jagesh Chandra, Aged about 26 years, Resident of Vill Shri Nagar, PO Piplund Tehs, Jahajpur, Dist. Bhilwara (Rajasthan)
33. Dhiraj Kumar S/o Baldev Singh, aged about 26 years, Resident of Dhani Peer Wali, Hansi, Hisar (Haryana)
34. Pankaj Singh Meena, S/o Sh. Ram Swaroop Meena, Aged about 28 years, Resident of Vpo Pancha Ka Bada, Tehs Jahajpur Dist Bhilwara (Rajasthan)

35. Rajesh Kumar, S/o Sh. Mangat Ram, Aged about 30 years, resident of Dhani Piran, Hansi, Hisar (Haryana)

36. Ramavtar S/o Om Parkesh, aged about 25 years, Resident of Dhani Piran, Hansi Hisar (Haryana)

37. Balraj S/o Sh. Gokal Ram, aged about 29 years, Resident of Vpo Bara Chourtapur, Tehs Bawani Khera, Dist Bhiwani (Haryana)

38. Pawan S/o Sh. Ramehar, Aged about 27 years, Resident of Vpo Pur Tehs Bawani Khera, Dist Bhiwani (Haryana)

39. Rajat S/o Sh. Satish, aged about 22 years, Resident of Vpo Naguran Tehs Alewa, Dist Jind (Haryana) **-Applicants**

(By Advocate –**Shri Yogesh Kumar Mahur**)

V e r s u s

1. Union of India, through the Secretary, Ministry of Communications & Information Tech. Department of Post, Dak Bhawan, Sansad Marg, New Delhi

2. The Additional Director General (DE), Department of Posts, (DE Section), Dak Bhawan, Sansad Marg, New Delhi 110001

3. The Chief Post Master General, M.P. Circle, Bhopal, Madhya Pradesh **-Respondents**

(By Advocate –**Shri S.P.Singh**)

(5) ORIGINAL APPLICATION NO. 200/00123/2018

Dinesh Kumar Sharma, S/o Shri Vijay Ram Sharma Aged about 48 years, R/o Village Khadravani, Post Noner, Tehsil Datiya, District Datiya (MP), Pin Code 475661 **-Applicant**

(By Advocate –**Shri K.C.Ghildiyal**)

V e r s u s

1. Union of India, through the Secretary, Ministry of Communications & Information Technology, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi, Pin Code

2. The Additional Director General (DE), Department of Posts,

(DE Section), Dak Bhawan, Sansad Marg, New Delhi,

3. The Chief Post Master General, M.P. Circle, Bhopal (MP), Pin
code 462012

-Respondents

(By Advocate –**Shri S.P.Singh**)

(6) ORIGINAL APPLICATION NO. 200/00218/2018

1. Vikas S/o Sh. Mahendra Singh, Aged about 31 years, R/o VPO
Bhagana Tehsil Hisar, Distt. Hisar Haryana

2. Deepak Sharma, S/o Sh. Chandi Ram, Aged about 26 years, R/o
VPO Nagura Tehsil Alewa, Distt. Jind Haryana

3. Sandeep, S/o Sh. Kuldeep, Aged about 21 years, R/o VPO
Ashram Basti Bhiwani Road, Distt. Jind Haryana

4. Dinesh S/o Preet Pal, Aged about 23 years, R/o VPO Nagura
Tehsil Alewa, Distt. Jind Haryana

5. Rishi Pal S/o Sh. Subhash Chand, aged about 27 years, R/o VPO
Matlauda, Distt. Panipat Haryana

-Applicants

(By Advocate –**Shri Yogesh Kumar Mahur proxy counsel of
Ms. Ritika Chawla**)

V e r s u s

1. Union of India, through the Secretary, Ministry of
Communications & Information Technology, Department of Posts,
Dak Bhawan, Sansad Marg, New Delhi, Pin Code

2. The Additional Director General (DE), Department of Posts,
(DE Section), Dak Bhawan, Sansad Marg, New Delhi 110001

3. The Chief Post Master General, M.P. Circle, Bhopal, Madhya
Pradesh

-Respondents

(By Advocate –**Shri S.P.Singh**)

(Date of reserving the order:-14.09.2018)

COMMON ORDER

By Navin Tandon, AM:-

The applicants are aggrieved by the fact that though they have been declared successful in the examination held on 26.06.2016 for fresh appointment of Postman/ Mailguard, no appointment letters have been issued so far.

2. Since the issues involved in all the six Original Applications are the same, they were heard together and final orders are being issued together. For the purpose of reference, the details stated in O.A. No. 200/00700/2017 are being referred to, unless specifically mentioned otherwise.

3. The brief facts of the case are that the respondent No.3 issued a notification dated 09.04.2016 (Annexure A-2) inviting applications from eligible candidates to fill up the post of Postman/Mail Guard in Madhya Pradesh Postal Circle in the pay scale of Rs. 5200-20200 (Pay band-I), Grade Pay Rs. 2000/-. A written examination was to be held as per pattern and syllabus for the examination detailed in Para 9 of the notification.

3.1 The written examination was held at Bhopal, Indore, Gwalior and Jabalpur on 26.06.2016 and select list declared on 21.09.2016 (Annexure A-3) on website of respondents. Provisional

appointment letters were issued on 07.10.2016 (Annexure A-4), asking the applicant for document verification.

3.2 However, thereafter, orders dated 14.10.2016 (Annexure A-1) were issued on the instructions of respondent No.3 which is being impugned through this O.A. This orders directed that no further action is to be taken in regards to the results of the examination held on 26.06.2016.

3.3 Respondents vide their letter dated 22.02.2017 (Annexure A-6 (colly.) in O.A. 102/2018) asked the applicants to be present in Bhopal on 19.03.2017 for document verification, written test and investigation. There has been no communication between the respondents and the applicants thereafter.

4. The applicants have prayed for the following reliefs in this O.A.:-

“8. Relief(S) Sought:

“(i) That the Hon’ble Tribunal may graciously be pleased to pass an order declaring to the effect that the whole action of the respondents not issuing he appointment/posting orders to the applicants is totally illegal, arbitrary and against the principle of natural justice and consequently, pass an order directing the respondents to issue appointment/posting orders of the applicants to the post of Postman immediately without any further delay with all the consequential benefits.

(ii) That the Hon’ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 14.10.2016 (Annex. A/1).

(iii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant along with the costs of litigation."

5. In response, reply has been filed by the respondents, rejoinder by applicants and additional reply by the respondents.

6. The respondents have submitted as under:

6.1 The examination was conducted for filling up the vacancies for the year 2011 to 2014 for a total of 367 posts of Postman and 7 posts of Mailguard i.e. total of 374 vacancies.

6. The entire work of conducting the examination was outsourced to a firm M/s T.M. Inputs and Services Private Limited, Secunderabad (hereinafter referred to as TMISPL).

6.3 A total of 2,49,956 applications were received, out of which 1,38,643 candidates appeared in the examination.

6.4 After the result was handed over to the respondents by TMISPL in soft copy, some sample checks were conducted manually and result declared on 22.09.2016.

6.5 Some minor errors/lapses were noticed, which were got corrected by Department of Posts (DoP).

6.6 After the results were declared, there was a news item in newspaper (Dainik Bhaskar) on 08.10.2016 (Annexure R-10) which highlighted the fact that 45% of the successful candidates are from Haryana.

6.7 Based on the newspaper report, the respondent No.3 then directed not to take any further action in the matter. He also asked Vigilance Department to conduct investigation into the matter. Vigilance Department submitted its report on 28.12.2016 (Annexure AD/1). This was followed by another report on 27.04.2017 (Annexure AD/2), which was prepared after the re-test held on 19.03.2017.

6.8 The conclusion drawn in the first Vigilance report is that out of 1,38,643 candidates which appeared in the main examination, only 1201 and 737 candidates were from Haryana and Rajasthan respectively. However, unusually high percentage of candidates from these two states have been declared successful-166 from Haryana and 48 from Rajasthan. Therefore, there are doubts that questions and answer keys have been leaked.

6.9 The second Vigilance report also doubts the results of the main examination as the performance of the 223 suspicious candidates called for retest was found to be below par in the retest. Hence, it has been concluded that the results are not trustworthy.

6.10 Respondent department have filed details of communication exchanged between them and TMISPL. While the respondents have tried to put blame on the firm, the same has been denied by the firm.

6.11 Respondents tried to handover the case to Central Bureau of Investigation (CBI) for investigation of malpractices in conducting written examination. However, since no involvement of any public servant of Department of Post surfaced during the Departmental enquiry, and complaint was directed only towards TMISPL (Private agency), CBI expressed their inability to take up the case. CBI cited the notification dated 12.10.2012 of Govt. of M.P., as per which CBI is unable to take up investigation of IPC offences in the State of Madhya Pradesh (CBI letter dated 11.10.2017 (Annexure R/29 refers)).

6.12 Thereafter, the respondents approached the Police Department and case was handed over to Special Task Force (STF), Madhya Pradesh, which has acknowledged receipt of the complaint on 28.12.2017 (Annexure R-31). STF has informed on 31.05.2018 (Annexure AR/1) that so far they have not reached any conclusion, and investigation are in progress.

7. Heard the arguments of learned counsels of both the parties and pleadings available on record.

8. Learned counsel for the applicants relied upon the decision dated 23.08.2018 of this Tribunal in the case of **Adarsh Kumar and another vs. Union of India & Ors.** in O.A. No. 200/925/2015

wherein Chhattisgarh Circle of Department of Posts were directed to issue appointment letters to the applicants in similar case.

8.1 However, learned counsel for the respondents were quick to point out that there are no similarities in the quoted case and the instant case. Firstly, there was no enquiry in the quoted case whereas two enquiries by Vigilance Department have been held in the instant case and further investigations are going on by STF. Secondly, the examination results were cancelled in the quoted case, whereas it has only been kept in abeyance in the instant case and no final decision has been taken.

8.2 Learned counsel for the applicants argued that in both the cases doubts have been raised on unsubstantiated facts.

9. The respondents have contended that they have exercised powers conferred upon competent authority vide clause 3 of notification dated 09.04.2016 (Annexure A-2), which reads as under:-

“3. The vacancies indicated in the enclosures are likely to vary/change without any prior intimation or assigning any reason. The department has the right to cancel the Recruitment process or modify the selection process for the reasons recorded in writing at any stage...”

9.1 Accordingly, it was decided by the competent authority to conduct investigation of 223 selected candidates whose case were suspicious. The breakup of 223 candidates were 164 candidates of

Haryana, 48 candidates of Rajasthan, 10 candidates of M.P. and 01 candidate of U.P. These 223 candidates were called for retest on 19.03.2017. The performance of these candidates had deteriorated substantially in the retest, as compared to the main test, even though the question paper was same/similar to the main test.

9.2 It was also highlighted that those candidates from Haryana/Rajasthan who performed extremely well in written test did not have matching marks in class X.

10. Learned counsel for the applicants strongly objected to this line of thinking. Firstly, the candidates had prepared meticulously for the main examination, which was not the case for retest. Secondly, the decision of the respondents to have a retest only for candidates from outside the state of M.P. is questionable. Thirdly, the pattern of examination was different in main examination and retest. While there were only multiple choice question (MCQ) in main examination, as per Para 9 of the notification, the pattern of retest was altogether different. Hence, the marks obtained in two different tests can not be compared.

10.1 Learned counsel for the applicants further questioned the methodology of comparing marks in the class X examination and in the main examination as they are of different types.

11. Learned counsel for the applicants highlighted the position mentioned in the rejoinder (OA 200/102/2018) which reads as under:-

“Para 10: That it has been admitted by the respondents that the entire action of withholding of result was based on a newspaper report which was by then neither investigated nor confirmed. It is strange that the malpractice in the examination was guessed on the basis of the examination result of class 10th of a candidate. The respondents should not have forgotten that the examination conducted by the was objective type examination which is different from examination. Merely because the candidates from some states did well and candidates from one state did not perform well does not lead to the conclusion that there was some malpractice adopted in the examination. It is totally incorrect and illegal to say that if the candidates of Haryana and Rajasthan have done well it is under scanner. As per the latest UPSC results for the Civil Services there are 3 students who are in the Top 5 of students, i.e. we should be doubting their credibility. Also there was 23 medals won by Haryana sports person which was almost 40% of the total medals won at the Commonwealth Games, should we also question that. This is a ridiculous statement by the Respondents that one particular state has done well and one has not done well.”

12. During arguments, it was highlighted that there were many cases of impersonation. Learned counsel for the applicants promptly agreed that such cases should be weeded out.

13. Hon’ble Supreme Court in the matters of ***Union of India and others vs. Rajesh P.U., Puthuvalnikathu and another*** (2003) 7 SCC 285 has held that the decision to cancel the selections in their entirety to the selected candidates, whose selection was not vitiated in any manner, is irrational. It was further held as under:

“6.Applying a unilaterally rigid and arbitrary standard to cancel the entirety of the selections despite the firm and positive information that except of 31 of selected candidates, no infirmity could be found with reference to others, is nothing but total disregard of relevancies and allowing to be carried away by irrelevancies, giving a complete go-by to contextual considerations throwing to the winds the principle of proportionality in going farther than what was strictly and reasonably to meet the situation. In short, the competent authority completely misdirected itself in taking such and extreme and unreasonable decision of canceling the entire selections, wholly unwarranted and unnecessary even on the factual situation found too, and totally in excess of the nature and gravity of what was at stake, thereby virtually rendering such decision to be irrational.”

14. It is very clear from the judgment of Hon’ble Supreme Court in the matters of **Rajesh P.U.** (supra) that the bad cases should be segregated from the good ones and selection should be allowed to continue. Wisdom of Hon’ble Shri Justice V.R. Krishna Iyer, flowing through the words in **Charles K. Skaria and others vs. Dr. C. Mathew and others**, (1980) 2 SCC 752 tell us that, “Indeed, the judicial process, in its creative impulse, must hesitate to scuttle, salvage wherever possible and destroy only when the situation is beyond retrieval.

15. We also place reliance in the matters of **Roop Singh Negi vs. Punjab National Bank and others**, (2009) 1 SCC (L&S) 398 (Civil Appeal No. 7431/2008), wherein Hon’ble Supreme Court has held that:

“Suspicion, as is well known, however high may be, can under no circumstances be held to be a substitute for legal proof.”

16. We have seen that STF is investigating the matter. We consider it fit that they should be allowed to finish the investigation. For this we deem one year’s time from 28.12.2017 to be sufficient.

17. The Competent Authority of the respondent-department is directed to take a decision regarding the appointment of applicants within 15 days from the date of submission of STF report or the time granted in Para 16 above whichever is earlier. We would like to reiterate that the views of Hon’ble Supreme Court as enumerated above be kept in mind while taking a decision. Respondents are also directed to bring these orders to the notice of STF.

18. Accordingly, the Original Application is disposed off. No costs.

(Ramesh Singh Thakur)
Judicial Member
rn

(Navin Tandon)
Administrative Member