

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

OA No. 3846/2014

Reserved on 18.03.2019  
Pronounced on: 29.03.2019

**Hon'ble Ms. Nita Chowdhury, Member (A)**  
**Hon'ble Mr. S.N.Terdal, Member (J)**

Kamaljeet Singh, Age-25 years  
S/o Rajbir Singh,  
R/o H.No.227,  
VPO-Tajpur Kalan, Thana-Alipur,  
Delhi110 036.

... Applicant

(By Advocate: Mr. Sachin Chauhan)

**VERSUS**

1. Union of India,  
Through its Secretary,  
Govt. of India,  
Ministry of Personnel, Public Grievances  
& Pension, Department of Personnel & Training,  
North Block, New Delhi.
2. Staff Selection Commission,  
Through the Chairman,  
S.S.C, Block No. 12, CGO Complex,  
Lodhi Road, New Delhi-3
3. The Dy. Regional Director,  
Govt. of India,  
Ministry of Personnel, Public Grievances  
& Pension, Department of Personnel & Training,  
Staff Selection Commission (NWR),  
Kendriya Sadan, Sector-9,  
Chandigarh-160009
4. The Controller General,  
O/O The Controller General of Defence Account,  
Ministry of Defence, Office of the CGDA,  
Ulan Batar Road, Palam,  
Delhi Cantt-10.

... Respondents

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

**ORDER**

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

We have heard Mr. Sachin Chauhan, counsel for applicant and Mr. S.M.Arif, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. The applicant in this OA has prayed for the following reliefs:

“(i) To quash and set aside the order dated 05.09.2014 whereby the candidature of applicant to the selection post has been cancelled and further applicant is being debarred for a period of 03 years for appearing in commission examination to further direct the respondents that applicant be given appointment to the post of L.D.C. as per merit obtained in present selection process with all consequential benefits including seniority & promotion and pay & allowances.

Or

(ii) Any other relief which this Hon'ble court deems fit and proper may also be awarded to the applicant.”

3. The relevant facts of the case are that the applicant applied for Combined Higher Secondary Level Examination, 2012 conducted by the respondents for the post of Lower Division Clerk (LDC). He appeared for the written examination and secured 131.50 marks in the written examination and he was declared successful. He declared qualified in written skill test of typing on 23.02.2013. He was on the list of provisionally selected candidates. But, however, his provisional recommendation for appointment was subsequently informed to be under consideration due to mismatch of some records and by the impugned order dated 05.09.2015 his candidature was cancelled. The counsel for the applicant vehemently and strenuously contended that the applicant is a meritorious candidate and in almost all the recruitment process he was provisionally recommended for the post of LDC but, however, without

Show Cause Notice (SCN) and without giving any opportunity of being heard his candidature was cancelled, as such the action of the respondents is discriminatory and requires to be set aside. In support of his contention, the counsel for the applicant relied on the following judgments:

- (1) **Staff Selection Commission Vs. Sudesh** (W.P (C) 9055/2014).
- (2) **Abhishek and Ors Vs. Staff Selection Commission and Ors**(W.P ( C) 1204/2014)
- (3) **Vikas Kumar Vs. Govt of NCTD through the Chief Secretary and Ors.**(OA194/2013 with connected OAs)

It is noticed that in the above said case of Sudesh the applicant was finally declared as selected and a SCN was issued to him, whereas in the present case the applicant was not declared as selected and before the selection process was completed when his answer scripts were subjected to scientific checks by reputed institution run by Government of India, which institute on the basis of statistical analysis found that he had resorted to unfair means and consequently he was not short listed, as such the judgments referred to by the counsel for the applicant are not applicable to the case of applicant.

4. The counsel for the respondents equally vehemently contended that though the applicant under went the selection process but, however, he was not been appointment, his recommendation was provisional in nature and that when the intending department under took the scrutiny and examination of the documents submitted by the applicant, his signatures, left thumb impression and handwriting samples, available on various documents of the written examination and also those obtained during the verification of documents were subjected to examination by

sending to Finger Print Bureau (FPB), Punjab, Phillaur (Jalandhar) for their examination and expert report. The said FPB vide their report confirmed that the applicant indulged in the use of impersonation /unfair means thereafter based on the same, the respondent-Commission cancelled the candidature of the applicant. The counsel for respondents further rightly submitted that the orders passed in the above case of Abhishek (supra) and Vikas Kumar (supra) are not applicable to the present case. The relevant averments of the respondents are extracted below:

"A. That the applicant is a UR candidate of Combined Higher Secondary Level Examination, 2012, advertised in the Employment News/Rozgar Samachar on 14.07.2012. He was provisionally recommended for appointment to the post of Lower Division Clerk through the aforesaid examination.

However, before sending the dossier of the applicant, on preliminary scrutiny, it was noticed that the applicant had indulged in impersonation. Therefore, the Commission sought his left Thumb Impression, Signatures and Handwriting samples and sent the same with his dossier to Finger Print Bureau, Punjab, Phillaur (Jalandhar) for their report in the matter and the same was received by them on 24.06.2014.

B. The FPB vide their report has confirmed that the applicant had indulged in use of Impersonation/Unfair means. Based on the same, the Commission vide its letter dated 05.09.2014 Cancelled his Candidature and debarred him for three years. Feeling aggrieved by the Commission's justifiable action the applicant has filed the subject OA. The Copies of the same are enclosed as Annexure-R-1 (Colly)."

The relevant portion of R-1 FPB report is extracted below:

"The impression marked Q-2 (Life size photo enclosed) (interfered with by the printed line) on the face of an admission certificate of Kamaljit Singh Roll No. 2201136482 for computer skill test is partly ink smudged but otherwise it is comparable and is different from the left thumb impression of Kamaljit Singh on his sample paper as the ridge characteristics details of the case print do not tally with the above said impression."

In support of his contention, the counsel for the respondents relied upon the following judgments:

- (1) **Karnataka Public Service Commission and Ors. Etc. Vs. B.M.Vijaya Shankar and Ors** (JT 1992(4) 348).
- (2) **Union of India & Another Vs. Sarwan Ram & Another** (SLP (C) No. 706/2014).
- (3) **Deepak Vs. Union of India and another** (OA 1355/HR/2013)- Chandigarh Bench.
- (4) **Devendra Kumar Vs. The General Manager (NR) and Others** (OA No. 2356/2014)- Principal Bench.
- (5) **Pradeep Kumar Vs. UOI Through the General Manager (NR) and Others** (OA No.4243/2013)- Principal Bench.
- (6) **Rahul Mavai Vs. UOI through Secretary, Ministry of Railways and Others** (OA No.32/2016)- Principal Bench.

The counsel for the respondents specifically brought to our notice the following observation made by the Hon'ble Supreme Court in the case of **Karnataka Public Service Commission and Ors. Etc. Vs. B.M.Vijaya Shankar and Ors** (JT 1992(4) 348).

“Does the rule of natural justice has no exception ? Is denial of opportunity of hearing, in every circumstance, arbitrary? The State of Karnataka and the Public Service Commission, through these appeals, seek answer to these questions. They are aggrieved by directions, issued by the Karnataka Administrative Tribunal, to get the answer books of candidates evaluated who in the competitive examinations conducted by the commission for the State Civil Service for categories `A' and `B' post, were guilty of writing their roll numbers not only on the front page of the answer books, in the space provided for it, but even at other places in disregard of instructions issued by the Commission. Basis for the direction was failure of the Commission to afford any opportunity to the candidates to explain their bonafide and innocence therefore it was arbitrary and it entailed grave consequences for those who were aspirants for entering into public service.

Power and authority of the Commission to hold examinations, regulate its working and functioning take action against erring candidates guilty of misconduct are all provided for by the rules and instructions issued in exercise of power conferred by the Statutes. The claim of the candidates that they did not vest any right in the Commission to take such action was negated by the tribunal. But it faulted in inferring that no penalty was provided for breach of instructions requiring a candidate not to write his roll number inside the answer book. Relevant clause (1) of the Instructions to Candidates is extracted below:

"Before commencing your answers please write your register number and other particulars in the space provided above. Do not write your name or register number or sign any where in the answer book or on any loose sheets, such as precis sheets, maps, graph papers, etc.'

It is not disputed and it was found, even by the tribunal that it was printed on the first page of every, answer book. Its observance was mandatory and its disregard was punishable is clear from instruction (xii) and (xiii) of General Instructions to the candidates which are extracted below:

"(xii) The candidates must abide by such instructions as may be specified on the cover of the answer book or any further instructions which may be given by the Supervisor/Invigilator of the Examination.

(xiii) If the candidates fail to do so or indulge in disorderly or improper conduct, they will render themselves liable to expulsion from examination and or such other punishment as the Commission may deem fit to impose."

Is the expression, 'such other punishment as the commission may deem fit to impose' vague and thus arbitrary? We do not think so. Read with clause (xii) it presents no difficulty. It provides action for breach of that which is, clearly, specified. It cannot be characterised as vague. And then any capricious exercise of power can always be assailed. 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.....”.

5. In view of the facts and circumstances of the case narrated above and in view of the law laid down by the Hon'ble Supreme Court referred to by the counsel for respondents and in view of the report of the Finger Print Bureau, the action of the respondents cannot be interfered with.
6. Accordingly, the OA is dismissed. No order as to costs.

**(S.N.Terdal)**  
**Member (J)**

**(Nita Chowdhury)**  
**Member (A)**

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