

11.9
LIBRARY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
KOLKATA BENCH

DETAILS OF THE APPLICATION

O. A. No. 350/274/2018

PARTICULARS OF THE APPLICANTS :

1. Ajoy Kumar Mukhopadhyay, son of Late Joy Gopal Mukhopadhyay, residing at 'Uttam Apartment', AD-387, Rabindrapally, P.O. : Profulla Kanan, Kolkata - 700 101.
2. Himanshu Kumar, son of Mahendra Das, residing at Murli, P.O. : Bhawanipur, P.S. : Ranghra Chwok, District : Bhagalpur, Bihar, PIN : 853 204.
3. Dipankar Roy, son of Late Dinesh Roy, residing at Village & P.O. & P.S. : Dhantala, District : Nadia, PIN : 741 201.
4. Pankaj Mondal, son of Paresh Mondal, residing at Babanpur Lock Gate, P.O. : Bengal Enamel, P.S. : Titagarh, District : North 24-Parganas, PIN : 743 122.
5. Ravindra Kumar, son of Chunni Prasad Singh, residing at Village : Bholatola, Kishandaspur, Ward No.3, Kahalgaon, District : Bhagalpur, PIN : 813 222.
6. Anil Kumar, son of Dinabandhu Choudhary, Village : Kashim Bag, P.O. : Mirjanhat, P.S. : Habibpur, District : Bhagalpur, PIN : 812 005.
7. Rupesh Kumar, son of Harilal Choudhary, residing at Village : Kashim Bag, P.O. : Mirjanhat, P.S. : Habibpur, District : Bhagalpur, PIN : 812 005.

8. Ajay Kumar, son of Arjun Yadab, residing at Village & P.O. : Bhedia, P.S. : Chandi, District : Nalanda, PIN : 803 113.

9. Ramesh Kumar Mayank, son of Ravindra Kumar, residing at Village & P.O. : Barara, P.S. : Noorsarai, District : Nalanda, PIN : 813 118.

10. Tuhin Subhro Kisku, son of Avinash Kisku, 24, M.B. Road, Kalabagan, Birati, Indraprastha Apartment, Block - 4, A-1, Kolkata - 700 051.

11. Rakesh Chandra, son of Chandradeo Prasad, residing at J.P. Road, Lakhibagh, P.O. & P.S. : Masaurhi, District : Patna, PIN : 804 452.

12. Subhankar Das, son of Susanta Das, residing at Parimal Mitra Nagar, P.O. : Chalsa, P.S. : Metelli, District : Jalpaiguri, PIN : 735 206.

13. Milan Biswas, son of Manaranjan Biswas, residing at Village : Bil Colony, P.S. : Nabagram, District : Murshidabad, PIN : 742 184.

14. Prince Kumar Singh, son of Kumar Dhirendra Singh, residing at Village : Bharkuriya, P.O. : Dhaudar, P.S. ; Indrapuri, District : Rohtas, PIN : 821 113.

15. Ardhendu Biswas, son of Ashim Chandra Biswas, residing at Village : Shankarpur, P.O. & P.S. : Dhantala, District : Nadia, PIN : 741 203.

16. Rahul Kumar, son of Sheo Lakhan Saw, residing at Village : Dulhin Bazar, P.O. : Belhourri, P.S. : Dulhin Bazar, District : Patna, PIN : 801 102.

17. Sashidhar Mandal, son of Ambika Mandal, residing at Village & P.O. : Bakharpur, P.S. : Pirpainti, District : Bhagalpur, PIN : 813 209.

18. Ravi Kumar Mandal, son of Kamaleshwari Mandal, residing at Village : Madhuban Tola, P.O. : Bakharpur, P.S. : Pirpainti, District : Bhagalpur, PIN : 813 209.

19. Sumit Kumar, son of Gauri Mandal, residing at Village & P.O. : Ranidiyara, P.S. : Ekchari (Pirpainti), District : Bhagalpur, PIN : 813 222.

20. Deepak Kumar, son of Suresh Prasad, residing at Village : Tejabigha, P.O. : Dahpar, P.S. : Noorsari, District : Nalanda, PIN : 803 119.

21. Rahul Kumar, son of Dhurwendra Prasad Mandal, residing at Village & P.O. : Khawaspur, P.S. : Pintainti, District : Bhagalpur, PIN : 813 209.

22. Subodh Kumar, son of Bindu Jamadar, residing at Village : Bhareti, P.O. : Yogapur, P.S. : Hilsa, District : Nalanda, PIN : 801 302.

23. Jitendra Kumar, son of Krishna Paswan, residing at Village & P.O. : Hilsa, P.S : Nalanda, PIN : 801 302.

24. Anand Kumar, son of Gurudev Rajak, residing at Village : Birbanna, P.O. : Sangitbatta, P.S. : Antichak, District : Bhagalpur, PIN : 813 203.

25. Vikash Kumar, son of Shiv Narayan Mandal, residing at Village : Anthawan Diyara, P.O. : Sangitbatta, P.S. : Kahalgaon, District : Bhagalpur, PIN : 813 203.

26. Dhiraj Kumar, son of Kameshwar Prasad, residing at Village : Dhanawan, P.O. : Gauravnagar, P.S. : Parwalpur, District : Nalanda, PIN : 803 114.

27. Shrabasti Biswas, daughter of Nirmal Biswas, residing at Village : Santinagar (Palta), P.O. : Nona Chandan Pukur (NC Pukur), P.S. : Titagarh, District : 24-Parganas (North). PIN : 700 122.

28. Prasanta Halder, son of Santosh Haldar, residing at Village : Patuli, P.O. : Badkulla, P.S. : Taherpur, District : Nadia, PIN : 741 121.

29. Chandan Murmur, son of Baburam Murmur, residing at Village & P.O. : Parbatipur, P.S. : Itahar, District : Uttar Dinajpur, PIN : 733 143.

30. Subhomoy Senapati, son of Biswanath Senapati, residing at Village & P.O. : Saluipahari, P.S. : Hirbandh, District : Bankura, PIN : 722 136.

31. Angshuman Jana, son of Aditya Kumar Jana, residing at Village : Kasba Egra, P.O. & P.S. : Egra, District : Purba Medinipur, PIN : 721 429.

32. Sudhangshu Mallick, son of Nagendra Nath Mallick, residing at Shantinagar College Para, P.O. : Bengal Enamel, P.S. : Titagarh, District : North 24-Parganas, PIN : 743 122.

33. Ravi Ranjan Jan, son of Ravindra Prasad, residing at Pipra (Chhatna), P.O. & P.S. : Parsa Bazar, District : Patna, PIN : 804 453.

34. Ritesh Kumar, son of Sikandar Paswan, residing at Village : Krishnapur, P.O. & P.S. : Hilsa, District : Nalanda, PIN : 801 302.

35. Sayan Samanta, son of Binoy Kumar Samanta, residing at Andul Station Road, Jhorehat, Andul, District : Howrah, PIN : 711 302.

36. Avi Mondal, son of Ajit Mondal, residing at Barrackpore Nagar, P.S. : Nona Chandan Pukur, P.S. : Titagarh, District : 24-Parganas (North), PIN : 700 122.

37. Saikat Sarkar, son of Satya Gopal Sarkar, residing at Village : Shantinagar (Near Boys High School), Nona Chandan Pukur, P.S. : Titagarh, District : 24-Parganas (North), PIN : 700 122.

38. Sanchita Sarkar, daughter of Shyamal Sarkar, residing at Santinagar, Palta, P.O. : Bengal Enamel, District : 24-Parganas (North), PIN : 743 122.

39. Dipankar Biswas, son of Dayal Biswas, Barrackpore Nagar, Nona Chandan Pukur, P.S. : Titagarh, District : 24-Parganas (North), PIN : 700 122.

40. Rajnish Kumar, son of Satish Prasad Kumar, residing at Village : Sherpur, P.O. : Daruara, P.S. : Noorsarai, District : Nalanda, PIN : 803 101.

41. Sonali Majee, daughter of Aswini Majee, residing at Village : Kalikapur, P.O. : Bara Tegharia, P.S. : Anandapur, District : Paschim Medinipur, PIN : 721 122.

42. Biswajit Adhikary, son of Bibekananda Adhikary, residing at Village : Kautuknagar, P.O. : Nadia Gorapota, P.S. : Hanskhali, District : Nadia, PIN : 741 502.

43. Madhabi Hansda, daughter of Laxmi Kanta Hansda, residing at Village P.O. : Sijgram, P.S. : Bharatpur, District : Murshidabad, PIN : 742 301.

44. Roslin Gidh, daughter of Christopher Gidh, residing at Village : Jagir Jote, P.O. & P.S. : Khoribari, District : Darjeeling, PIN : 734 427.

45. Suparna Hazra, daughter of Pranab Kumar Hazra, residing at West Malapukur, Saheb Bagan, P.O. : Bandel, District : Hooghly, PIN : 712 123.

46. Susmita Jana, daughter of Arun Kumar Jana, residing at Village & P.O. : Dakshin Jagatddal, P.S. : Sonarpur, Kolkata - 700 151.

47. Chinmoy Mukherjee, son of Late Sanat Mukherjee, residing at 15(7), Sahid Mangal Pandey Sarani, Khan Mansion, Flat No. 4D, Barrackpore, District : 24-Parganas (North), PIN : 700 120.

48. Riya Pal, daughter of Sukumar Pal, residing at Uppter Jorehat, Andul Station Road, Near Rabindra Sangha, District : Howrah, PIN : 711 302.

49. Dinesh Kumar Bharti, son of Dhrubnath Bharti, residing at A-36/3, Anand Nagar, Dakshin Behala Road, P.S. Sarsuna, Kolkata - 700 061.

50. Surajit Das, son of Sasti Ranjan Das, residing at Village & P.O. : Dalepara, P.S. : Bhagwangola, District : Murshidabad, PIN : 742 113.

51. Shyamashri Dandapat, daughter of Chandi Charan Dandapat, residing at Village : Satma, P.O. : Kortia, P.S. : Gopiballavpur, District : Jhargram, PIN : 721 506.

52. Bipin Tigga, son of Suleman Tigga, residing at Naya Nagar Mangal Sing Jote, P.O. : Hatighisa, District : Darjeeling, PIN : 734 429.

53. Amresh Kumar Singh, son of Shriniwas Singh, residing at Village & P.O. : Sonbrsha, P.S. : Karakat (Gorari), District : Rohtas, PIN : 802 205.

54. Vivek Kumar, son of Dinanath Singh, residing at Village & P.O. : Koilwan, P.S. : Haspura, District : Aurangabad, PIN : 724 115.

55. Girija Mani, son of Nawal Kishore Singh, residing at Village & P.O. : Jamuhari, P.S. : Mehindia, District : Arwal, PIN : 804 428.

56. Koushik Chandra Das, son of Tarak Chandra Das, residing at Jhapantala, Tegharipara, Nabadwip, District : Nadia, PIN : 741 302.

57. Achin Das, son of Late Satyapada Das, residing at Hatjanbazar Co-operative Colony (Near Ramprasad Roy High School), P.O. Hatjanbazar, District : Birbhum, PIN : 731 102.

58. Pintu Kumar Shankar, son of Laxmi Narayan Shankar, residing at Village Sonakukhi Jholi, P.O. : Hijli, P.S. : Kharagpur Town, District : Paschim Medinipur, PIN : 721 306.

59. Mousumi Passi, daughter of Late Tilak Prasad Passi, residing at 107/16, Shastri Nagar, Katadanga Road, Kankinara, P.O. : Kankinara, District : 24-Parganas (North), PIN : 743 129.

60. Subabul Dey, son of Hiralal Dey, residing at Village : Patmouli, P.O. : Muramouli, P.S. : Raipur, District : Bankura, PIN : 721 504.

61. Anuj Kumar Singh, son of Niwash Singh, residing at Village & P.O. : Sonbrsha, P.S. : Karakat (Gorari), District : Rohtas, PIN : 802 205.

62. Nitesh Kumar, son of Shivprasad Singh, residing at Village : Bodh-Bigha, P.O. : Jaipur, P.S. : Mehandia, District : Arwal, PIN : 804 428.

63. Birendra Kumar, son of Ramanand Sharma, residing at Village Mania, P.O. : Manjhgany, District : Munger, PIN : 813 221.

64. Chandan Jaiswara, son of Bechan Jaiswara, residing at North Brook Colliery, P.O. : Bidhanbag, P.S. : Raniganj, District : Burdwan, PIN : 713 337.

65. Ranjit Singh, son of Ayodhya Singh, residing at Village & P.O. : Pokharahan, P.S. : Bagen-gola, District : Buxar, PIN : 802 134.

66. Kanish Kumar, son of Dinesh Prasad, residing at Village & P.O. : Sadikpur, P.S. : Maner, District : Patna, PIN : 801 503.

67. Bikash Kumar Singh, son of Baban Singh, residing at Village & P.O. : Gundi, P.S. : Krishnagarh, District : Bhojpur, PIN : 802 313.

68. Abhimanyu Kumar, son of Jitendra Singh, residing at Village : Bharkuriya, P.O. : Dhaudar, P.S. : Indrapuri, District : Rohtas, PIN : 821 113.

69. Abhinav Ranjan, son of Arvind Kumar Sharma, residing at Village : Nonhi, P.S. : Kako, P.O. : Nanhi, District : Jehanabad, PIN : 804 418.

70. Ananta Lal Das, son of Haripada Das, residing at Village : Jogini Daha, P.O. : Sak Daha, P.S. : Kotwali, District : Nadia, PIN : 741 167.

71. Chandrachur Das, son of Nibaran Das, residing at Panchra, P.O. : Panchrahat, P.S. : Khayrasole, District : Birbhum, PIN : 731 133.

72. Basudev Das, son of Pawan Das, residing at Jhajha, P.O. : Kojhi Gora, District : Banka, PIN : 813 116.

73. Pankaj Mohanta, son of Palan Mohanta, residing at Village & P.O. : Dakra, P.S. : Balurghat, District : Dakshin Dinajpur, PIN : 733 102.

74. Monu Kumar, son of Satyendra Singh, residing at Village : Daulatpur Dharampur Tola, P.O. : Davlatpur Gandhi Tola, P.S. : Fatuha, District : Patna, PIN : 803 202.

75. Abinash Kumar, son of Upendra Singh, residing at Village & P.O. : Sarathua, P.S. : Udwant Nagar, District : Bhojpur, PIN : 802 206.

76. Ranbir Singh, son of Chandraketu Singh, residing at Village : Kharauni, P.O. : Shakhuan, P.S. : Udannagar, District : Bhojpur, PIN : 802 206.

77. Jayant Ram, son of Jogendra Ram, residing at House No. 39, B.L. No.11, Puranitalab, P.O. & P.S. : Jagatdal, District : North 24-Parganas, PIN : 743 125.

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78. Sourabh Kumar, son of Santosh Kumar, residing at Village, P.O. & P.S. : Tilouthu, District : Rohatas, PIN : 821 113.

79. Suman Biswas, son of Siddhartha Biswas, residing at Village : Joypur, P.O. : Kamgachi, P.S. : Taherpur, District : Nadia, PIN : 741 254.

..... Applicants.

- Versus -

PARTICULARS OF THE RESPONDENTS (FIVE IN NOS.) :

1. Union of India, Service through the Secretary, Ministry of Communication, Department of Posts, Government of India, Dak-O-Tar Bhawan, New Delhi - 110 001.

2. Secretary, Ministry of Communication, Department of Posts, Government of India, Dak-O-Tar Bhawan, New Delhi - 110 001.

3. Director General of Posts, Ministry of Communication, Department of Posts, Government of India, Dak-O-Tar Bhawan, New Delhi - 110 001.

4. Chief Post Master General, West Bengal Circle, Yogajog Bhawan, C.R. Avenue, Kolkata - 700 012.

5. Assistant Director of Postal Services (Rectt.), Office of the Chief Post Master General, West Bengal Circle, Yogajog Bhawan, C.R. Avenue, Kolkata - 700 012

..... Respondents. .

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A/350/274/2018
(M.A.Nos. 478 & 819/2018)

Date of Order: 11-09-2019

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr. N. Neihial, Administrative Member

Ajoy Kumar Mukhopadhyay & Ors. Vs. UOI & Ors.

For the Applicant(s): Mr. I.N.Mitra, Counsel

For the Respondent(s): Mr. P.Mukherjee, Counsel

ORDER

Bidisha Banerjee, Member (J):

Ld. Counsels were heard and materials on record were perused.

2. The admitted facts that we discern from pleadings, go thus;

A notification was issued on 23.12.2015 for recruitment to the post of Postman/Mail Guard by the office of the Chief Post Master General, West Bengal Circle. It was mentioned in the said notification that 439 posts would be filled up through a selection process. In response to the aforesaid notification, all the applicants, being eligible and possessing requisite qualification, offered their candidature along with other candidates. On being satisfied, subject to verification of the documents, the authority issued admit card in favour of all the applicants with the instruction that the written examination would be held on 29.05.2016. Pursuant to such instruction, all the applicants duly appeared at the written test along with other candidates on the scheduled date and venue, as mentioned in the admit card. A merit list was prepared thereafter and, in order of

merit, Divisional allotment was issued by the authority. However, on 17.04.2017, the authority vide notification kept the selection process in abeyance. On 12.02.2018 selection process for recruitment to the post of Postman/Mail Guard en-bloc was cancelled. Aggrieved, the applicants have preferred this original application.

2. The applicants have assailed the cancellation and sought for the following reliefs:

"a) An order do issue setting aside and/or quashing the impugned notice of cancellation bearing no. Rectt/X-16/DR/2015/II dated 12.2.2018 issued by the Assistant Director of Postal Services, office of the Chief Postmaster General, West Bengal Circle, Kolkata, forthwith.

b) An order do issue directing the respondents authorities more particularly the Assistant Director of Postal Services, office of the Chief Postmaster General, West Bengal Circle, Kolkata to rescind, cancel and/or withdraw the impugned notice bearing no. Rectt/X-16/DR/2015/II dated 12.2.2018, forthwith;

c) An order do issue directing the respondents authorities to act on the basis of the allocation of Division to the applicant, forthwith;

d) An order do issue directing the respondent authorities to allow the applicants to join in their respective Division in the post of Postman/Mail Guard, forthwith;

e) And pass such order or orders, direction or directions as this Hon'ble Tribunal may deem fit and proper."

3. The reason for cancellation of the examination as could be gathered from the communication dated 08.03.2018 addressed to the Suptd. of Police, CBI (ACB) by the Asst. Director of Postal Services (Rectt.) O/O CPMG, West Bengal Circle, goes thus:

Subject: Irregularities in Postman/Mailguard Exam., held on 29.05.2016 through Outsourced Agency, UMC Technologies (P) Limited, Kolkata- 700 017.

Ref: No previous reference.

Sir,

The Postman/Mailguard Examination for the year 2015 for West Bengal Postal Circle was conducted by the approved Outsourced Agency, UMC Technologies Ltd. on 29.05.2016 on turnkey basis and on submission of the list of shortlisted candidates by the said Agency, the result was declared on 23.12.2016. ✓

Subsequent to this, some complaints were received from non-qualified candidate by means of RTI applications alleging that they did well in the examination and are supposed to secure high marks and would come out successful in the examination but they could not succeed. Some complainants alleged that the candidates of other states were the topper in the merit list of the successful candidates even though they answered better.

These references were forwarded for Departmental enquiry and on receipt of preliminary enquiry report dated 05-4-2017, the result declared on 23-12-2016 was kept in abeyance with effect from 17-4-2017.

Thereafter a committee Headed by Assistant Postmaster General (Vigilance) was formed to investigate the case in detail. The Committee submitted its investigation report dtd. 08-02-2018 on 09-02-2018 mentioning following prima-facie irregularities.

a) Though the examination was held on 29.05.2016 and sealed covers of OMR answer sheets were opened on 10.06.2016 by the Agency and date of uploading of Answer Key was on 09.06.2016 and time taken from date of opening of OMR answer sheets for evaluation was 52 days (working days). During this long period the OMR sheets remained in the custody of the Agency. The security aspect of those OMR sheet were not looked into by the Agency.

b) Maximum number of candidates of Haryana State were allotted to the venues 8001 to 8012 which are located within Kolkata and around. Out of 438 successful candidates, 214 candidates were qualified from those venues in which 122 candidates were of Haryana State. The largest number of qualified candidates was from Venue no. 8012 (Shivanath Shastri College, Kolkata- 700 029), total number of qualified candidates from this venue was 38 followed by venue 8009 (Baral High School, Kolkata- 700154), total number of qualified candidates from this venue was 30.

c) According to UMC Technologies Pvt. Ltd. there was no applicant from Delhi State, but 13 candidates having their address at Delhi had been qualified. UMC replied that as per application software only the IP address of remote system and the date and time stamp of registration saved in the database. So, UMC failed to detect the number of candidates from Delhi Circle though IP addresses of remote system from where those candidates applied were in their database.

d) OMR sheets of 31 selected candidates who furnished incorrect & incomplete declaration in their OMR sheets have been evaluated inspite of specific clause given in front page of OMR sheet that "a statement is given below in English language, which has to be reproduced as it is by candidate with blue/black ball point pen in Own Running Handwriting (NOT IN CAPITAL LETTERS), in case the statement is not reproduced fully and correctly, answer sheet will not be evaluated."

e) Clause 3 of the instructions in the OMR answer sheets stipulates that once a circle is darkened as answer to the question, it is final. No change by erasing/using fluid or marking cross in the circle is permitted. But marks have been allowed inspite of these irregularities.

f) Clause 6 of the OMR sheet stipulates that multiple answers given against one question will not be considered for evaluation, but marks have been allowed inspite of these irregularities.

g) Uploading of answer keys as 'ambiguous' initially by the UMC Technologies Pvt. Ltd. before reporting the facts of defects in answer key.

h) Most candidates applying from Haryana State have used their email id as "nbphansi" followed by numerical digits such as 1, 2, 3, 4 @gmail. Com. The similarity and common email id reveal that the applicants are from a particular area in Haryana State and it is also the fact that 51 selected candidates have this similarity.

In view of the lapses on the part of the Agency, the committee has observed irregularities in the selection in the OMR answer sheets of the successful candidates as well as in the papers of those who failed to qualify. Out of 438 candidates selected, 46 were not actually fit. In a small sample of 51 non selected candidates six had similar lapses. This indicates that the whole examination was vitiated and thus the Committee had concluded that the examination was not conducted in a fair / free and impartial manner. So, it has finally recommended for cancellation of the recruitment and for initiation of fresh recruitment process. Accordingly the exam dated 29.05.2016 and result thereof declared on 23.12.2016 has been cancelled on 12.02.2018 as per order of the competent authority.

It is therefore requested kindly to take necessary action for further investigation in to the matter.

This issues with the approval of competent authority.

Yours faithfully

(K. K. RANA)

Asstt. Director Postal Services (Rectt.)

O/o the Chief Postmaster General,

West Bengal Circle, Kol-700012

4. The said complaint was lodged on the basis of a vigilance investigation

report. The report reveals the following facts:

Vigilance investigation report in connection with alleged irregularities in
Recruitment of Postman/ Mail Guard Recruitment examination, 2015 held on
29.5.2016.

1. Source:

The ADPS (Rectt) vide his letter No. Rectt/X-16/DR/2015/L dated 3.1.2017 followed by dated 17.2.17 forwarded six complaints in connection with Postman /Mail Guard examination in West Bengal Circle for the year 2015 held on 29.05.2016 alleging irregularities. Those six (6) complaint letters were from 1. Sri Dipak Dhal (Roll No. 85140543) dated 29.12.16, 2. Sri Dinesh Dhal (Roll No. 85140559) dated 29.12.16, 3. Sri Sandip Patra (Roll No. 85020571) dated 30.12.16, 4. Sri Dharmender (Roll No 80010952) dated 26.12.2007 (?), 5. Sri Ayan Ghosh dated 05.1.2017 and 6. Sri Ashok Dinda dated 28.12.2016 who were candidates of the aforesaid examination. The applications of the first 4 (four) candidates are RTI applications expressing dissatisfaction for non-qualifying in the examination while the last two complainants mainly alleged the success rate of candidates of other states in comparison with West Bengal. The complaints are annexed in Annexure-I.

2. Gist of allegations:

The complainants alleged that they have done well in the examination and supposed to secure high marks and would come out successful in the examination but they could not succeed which compels them to seek information under RTI Act 2015 besides blaming the Department about transparency of the examination process. The complainants Ayan Ghosh and Ashok Dinda alleged that the candidates of other states are topping in the merit list among the successful candidates though they answered better. Thus all the 6 (six) complainants are dissatisfied about the results of the examination and raised allegation of irregularities.

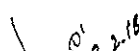
3. Facts:

3.1 On receipt of complaints an investigation into the matter was taken up by the APMG (Vigilance) followed by formation of a committee comprising of:

- i) Sri S. Mallick, VO as head of the Committee
- ii) Sri S. Dasgupta, ADPS(INV) as member


8.2.18
(S. Mallick)


8.2.18
(S. Dasgupta)


8.2.18
(S. Das)


8.2.18
(K. Banerjee)

- iii) Sri S. J. Das, ASP(Vig) as member
- iv) Sri K. Banerjee, ASP(INV) as member

3.2 It reveals that the advertisement for recruitment related to the instant case was published on 28-12-2015 at the Anandabazar (Bengali), the Telegraph (English), the Samarg (Hindi) and the Himalay Darpan (Nepali) inviting applications on line and giving last date of submission on 27-01-2016. M/S UMC Technologies (P) Ltd, 76 Shakespeare Sarani, Duke's Court Kolkata-700017, one approved Out-sourced agency viz. UMC Technologies (P) Ltd, was entrusted for conduction of recruitment. According to M/S UMC Technologies (P) Ltd they received 254759 online applications within the cutoff date from applicants of 28 states. Out of 254759 applicants, the number of permitted candidates is 177127 but only 107423 candidates appeared in the examination. The vacancy was 439 and the number of successful candidates is 438.

3.3 It also reveals that there are 4 (four) parts in the OMR sheets viz. A, B, C (I) & C (II). Part C (II) contains 25 questions from question No. 76 to 100 on Regional Language (Bengali, Hindi & Nepali). There are 6 (six) questions in each series of OMR sheets with ambiguous answers in Hindi as Regional Language only. In OMR sheets of other Regional Language the number of questions of ambiguous answers is 5 (five) only. The agency has provided 1 (one) mark for attempting each ambiguous answer irrespective of darkening wrong or right circles of those ambiguous answers. Hence the candidates choosing Hindi as Regional Language have got the chance of getting 6 (six) marks automatically by darkening wrong or right circles of ambiguous answers. The candidates choosing Bengali and Nepali as Regional Language got the chance of getting 5 (five) marks automatically if they darkened any circle of ambiguous answers which is one mark lower than the candidates choosing Hindi as Regional Language. So, difference in getting 1 (one) extra mark always remains between the candidates who chose Hindi as Regional Language over other language.

3.4 Candidates who furnished incorrect and incomplete declaration are to be disqualified, as per one of the conditions of the recruitment clause vide preamble para of OMR sheets under heading "Important instruction for marking response on OMR answer sheets" which reads as "Strict compliance of instruction is essential. OMR answer sheets will be processed by electronic means in computer. Invalidation of answer sheet due to incomplete/ incorrect filling of the OMR sheet will be the sole responsibility of the candidate". It reveals that


(S. Mallick)


(S. Dasgupta)


(S. J. Das)


(K. Banerjee)

several candidates who defaulted in the clause were still declared successful by the agency.

3.5 The committee members scrutinized answer scripts of 438 qualified candidates and 51 OMR sheets of non-qualified candidates selected randomly.

4. Examination of OMR sheets and pattern noted thereof:

On examination, the general pattern which are revealed as wrong and incomplete / incorrect declaration in OMR sheets; ambiguous questions and improper marking of answers are detailed below:

4.1 General Scrutiny of OMR sheets of qualified candidates:

A. Details of the candidates, who furnished incorrect and incomplete declaration in their OMR Sheets, are annexed in E - I. There are 31 (thirty one) candidates qualified even with these lapses out of 438 samples.

B. Scrutiny of OMR sheets regarding ambiguous answers reveals the same as detailed in Para - 3.3.

C. The committee also observes that the answer scripts were not properly and evenly evaluated. Partial attitude on the part of evaluator is noticed. Clause 3 of important instructions for marking response on OMR answer sheets stipulates that once a circle is darkened as answer to the question is final. No change by erasing/ using fluid or marking cross in the circle is permitted. Moreover, clause 6 of the instruction stipulates that multiple answers given against one question will not be considered for evaluation. The committee observes the irregularities in respect of the qualified candidates which are annexed in E - II, whereas 15 (fifteen) candidates have been qualified.

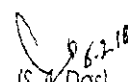
4.2 General Scrutiny of OMR sheets of non-qualified candidates:

A. Details of the candidates, who furnished incorrect and incomplete declaration in their OMR Sheets, are annexed in E - III of the sample 51 OMRs, there are 04 (four) such cases.

B. Scrutiny of OMR sheets regarding ambiguous answers reveals the same as detailed in Para - 3.3.


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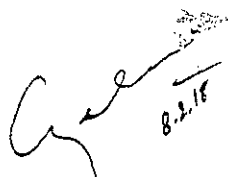
C. The committee also observes that the evaluation of the answer scripts was not properly and even. Partial attitude on the part of evaluator is noticed. Clause 3 of important instructions for marking response on OMR answer sheets stipulates that once a circle is darkened as answer to the question is final. No change by erasing/ using fluid or marking cross in the circle is permitted. Moreover, clause 6 of the instruction stipulates that multiple answers given against one question will not be considered for evaluation. The committee observes the irregularities in respect of the non-qualified candidates which are annexed in E - IV. Even in the small sample size of 51 candidates, 02 (two) cases were noted.

4.3 Summarized Findings on Scrutiny of OMR Sheets:

A. There are 6 (six) ambiguous answers in the question papers with "Hindi" as regional language whereas for others it is 5 (five). The outsourced agency gave one (1) mark for each question having ambiguous answer irrespective of attempting or not attempting those questions. As a result the candidates who preferred "Hindi" as Regional language got 6 (six) marks automatically out of 100 whereas the candidates who preferred "Bengali" or "Nepali" as regional language got 5 (five) marks. This makes a difference in merit between the candidates. It is worth mentioning that the candidates who did not attempt those questions having ambiguous answers also got marks automatically.

B. The UMC Technologies vide their letter no. UMC/ED-VIII/16 dated 14-07-2016 informed the ADPS (Recrt) that KEY published in respect of question no 7, 26, 41, 72 and 87 of booklet series A was rectified. In their letter they claimed answer to question no 41 of booklet A is 'A' (6400) though 'A' (6400) is not also the correct answer. The correct answer should have been "1/4". The figure "1/4" does not appear in any options A, B, C or D. Uploading of answer keys as "Ambiguous" initially before reporting the facts of defects in answer-key reflects the **IRRESPONSIBILITY** of the Agency while dealing with a sensitive issue of recruitment examination in a Central government organization.

C. The question setter can never provide the key of a question as 'Ambiguous'. But according to UMC Technologies letter no. UMC/ED-VIII/16 dated 14-07-2016; they published keys for question No. 7, 41 and 87 as "Ambiguous" which is irregular. This indicates that the Agency did not take due care in conducting the examination giving scope to irregularities.


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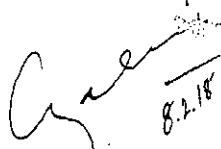

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D. No uniformity is maintained in evaluating the OMR sheets. In respect of few candidates viz. Pawan - 80121020, Prasanta Halder - 81170504 of Darjeling Dn., Sumit - 80111157 of Bankura Dn., Basudeb Das - 80110144 & Sanjay - 80100628 of Asansol Dn., Satish Kumar - 80090510, Subhas - 80090386, Jitender Kumar - 80890999 etc. the candidates deserve no mark for adopting wrong procedure of answering in OMR sheets but their OMR sheets were still evaluated and considered.

D.1 Serious irregularities are observed in case of Ajay Kumar - 80120239 of Midnapore Dn. In the literature portion (76 to 100) this candidate had been allotted 21 marks. The wrong darkening are in questions 92, 94 & 97 and double spotting at 77 & 78. Hence the candidate should secure either 22 or 20 (if no marks are allotted for 77 & 78 for double spotting). This candidate darkened option D of question no. 28 and dotted B, whereas D is correct answer and one mark is allotted for this answer though it deserves no mark for double spotting. When mark was given for question no. 28 though doubly spotted, no marks were allotted for the same mistake in 77 & 78 though double spotting deserves no marking in all such cases.

D.2 Raju Sharma - 80010636 of Kolkata GPO did not mention the language of question paper for which OMR sheet was supplied vide OMR sheet no. 100721. As a result no checking of the OMR could be done. This candidate darkened replies for question no. 1 - B, 8 - D, 20 - C, 29 - B, 62 - D, 81 - A, 83 - D & 99 - B. The agency has allotted marks against this OMR sheet for Part A- 1, Part B - 3, Part C (I) - 2 & Part C (II) - 1, total 7. The questions from question no. 1 to 75 are same irrespective of language of the question but 76 to 100 are different being literature portion. There are 6 ambiguous answers for question papers having Hindi as regional language and 5 for Bengali as regional language. Among the answered questions there is only one correct answer vide answer to question no. 29 which is in-between question no. 1 to 75. It could not be ascertained whether there is any right answer in between 76 to 100 where he darkened three questions viz. 81, 83 & 99. But the agency allotted him 7 marks.

D.3 Ashim Dehuri did not mention the Booklet series in the OMR sheet which was provided to him vide column 5 of OMR sheet. The candidate secured marks in Part A-6 ; in Part B-8 ; in Part-C(I)-6 & in Part-C(II)-5 Total =25. So, merit of the candidate was obviously not appropriately evaluated.


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E. The performance of the candidate who did not complete or incorrectly completed the declaration in the OMR sheet are to be taken as disqualified but it is seen that those are evaluated and candidates have been qualified.

F. The committee also observes that in respect of candidates applying from Haryana State, most of them have used their email id as "nbphansi" followed by numerical digits such as 1,2,3,4...@gmail.com. The details are annexed at E - V. The similarity and common mail IDs reveal that the applicants are from a particular area in Haryana and it is also the fact that 51 (fifty one) numbers of selected candidates have this similarity.

5. Observations:

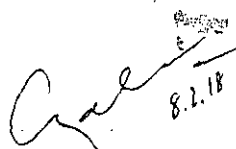
As noted in the previous chapter, the observations are pertaining to wrong declarations, ambiguous answers and wrong evaluations in the Postman /Mail Guard examination in West Bengal Circle for the year 2015 held on 29.05.2016 and after thorough scrutiny of OMR sheets the committee observed that:

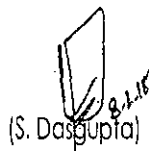
1. UMC Technologies failed to evaluate OMR sheets appropriately as per extant of Rules and instructions in the OMR sheets. (E - I & III)
2. UMC Technologies failed to give any importance about instructions in OMR sheets regarding filling up of declarations by the candidates in OMR sheets. (E - II & IV)
3. Uploading of answer keys as "Ambiguous" initially by the UMC Technologies before reporting the facts of defects in answer key reflects the **IRRESPONSIBILITY** of the Agency dealing with sensitive matter like recruitment examination in a Central government organization.


6. Response of the Vendor Concerned:

Point-wise comments of UMC Technologies was sought for by the ADPS (Rectt) vide letter number Rectt/X-16/DR/2015/AD(R) /II dtd 27.04.2017 on various points and UMC submitted their reply to the ADPS (Rectt) vide their letter UMC/CS-II/2017 dated 11-05-2017 and 18-08-2017, gist of which is appended below:

A. The same wrong options were chosen by several candidates not just the few as mentioned in the letter of ADPS (Rectt) vide No Rectt/X-16/DR/2015/AD(R) /II dtd 27.04.2017. Similar trend showed for all items. It


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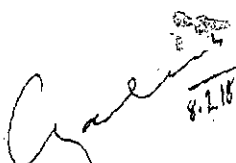

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depends on individuals understanding and interpretation of the question vis-à-vis options available. It could be closest to the correct option or a mere guesswork, since there was no negative marking for wrong answers. Apart from the ones pointed out there are few other cases in non -shortlisted / disqualified candidates having same set of wrong answers too.

B. It is a common practice in many examination that in case of any anomaly in **Question Paper** or its given **Answer Option** it is reported during or after the exam by the candidates to Observers/Invigilators/Coordinators and sometimes it is detected while re-verifying the answer keys provided by the Experts after the Exam but before evaluation. The keys provided by the Experts/Paper Setters are received /compiled only after the examination and then mapped for various series after receiving the jumbling chart from the Printing Press. The correctness of key is re-verified again by them after the Examination and referred back to the subject Expert for clarification, so that wrong keys are not applied for any series resulting in wrong evaluation. The candidates could not attempt the said questions or attempted incorrectly, as the case may be, due to confusion arisen out of either missing correct answers or incorrect answers only. Thus in order to give the Benefit of doubt equally to all the candidates, equal marks was awarded to all the appeared candidates irrespective of his/her attempt.

C. As per application software, only the IP address of remote system and the date and time stamp of Registration saved in the database. The database contains the data filled up by the candidate as per his self declaration along with scanned copies of his /her photograph and signature. No other documents were instructed to upload by the candidates. Hence the only source of receipt of all applications is online data base where the data have been furnished by the candidates along with the IP address, which has already been communicated or transmitted to the department. Hence the source of receipt of applications can be available from data base which the department is already in possession. There is no scope for any physical verification on the online process.

D. They followed the uniformed principle for ambiguity and hence they did not use any other yardstick. There is no such error in other regional language paper and hence they could not be treated differently. It was just accident that such error occurred in Hindi paper. They agree that one mark difference can make a huge difference in competitive examination, but they were totally unbiased and did not think differently for different language angle.


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E. It is very difficult to analyse the qualitative traits vis-à-vis quantitative figure in the same equation. These are purely theoretical arguments no one can predict any such definite pattern/outcome in an all India based Competitive Examination.

F. The mode of examination is offline. Hence it involves the use of backroom of the vendor for OMR scanners and OMR-based scanning technology for capturing responses from the OMR sheets and several other activities that they are expected to perform the post examination work during the entire span of time. Sundays and Holidays have also been excluded from the required time to complete the work. The OMR sheets were in their custody to perform all the post examination work for 52 days.

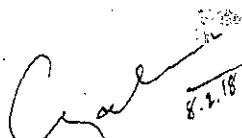
7. Counter to the Response:

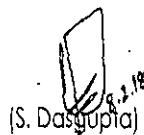
The irregularities which were pointed out in the investigation report are specific and based on documentary evidences. The investigation team carried out thorough checking of OMR sheets of 488 qualified candidates and 51 OMR sheets of non-qualified candidates selected randomly. In every case the nature of irregularities noticed are similar and are mentioned in the report. Hence the response of the agency should be specific not to be hypothetical. The delay of 10 to 15 days may happen but the irregularities which had been pointed out in the preceding paras are not expected at all specially when there is allegation of irregularities followed by malpractice in the exam process in question and the vendor concerned i.e. UMC Technologies (P) Ltd failed to submit specific and factual response against different irregularities pointed by the ADPS (Rectt). It is pertinent to mention here that biggest concern is about the irregularities.

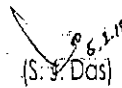
8. Conclusion:

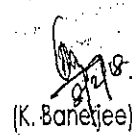
8.1 Uploading of answer keys as "Ambiguous" initially before reporting the facts of defects in answer keys reflects the **IRRESPONSIBILITY** of the agency.

8.2 The agency has also displayed irregularity and biasness in evaluating the OMR sheets. It is needless to mention that difference of one mark can be a determining factor for judging the merit of the candidates in any competitive examination. The agency should have scrutinized the question papers before examination and answers scripts thereafter more carefully. The agency should


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have more careful in setting the question paper and preparing the options of answers as well.

8.3 The examination was held on 29-05-2016 and according to the UMC Technologies the sealed covers of OMR sheets were opened on 10-06-2016, date of uploading of answer key was on 09-06-2016 and time taken from date of opening of OMR sheets for evaluation is 52 (fifty two) working days. During these long gaps the OMR sheets were remained in the custody of the agency. The security aspects of those OMR sheets were not looked into by the agency.

8.4 Maximum numbers of candidates of Haryana State were allotted to the venues 8001 to 8012 which are located within Kolkata and around. Out of 438 successful candidates, 214 candidates were qualified from those venues in which 122 candidates were of Haryana State. The largest number of qualified candidates is from Venue 8012 (Shivanath Sastri College, Kol-29, total number of qualified candidate from this venue 38) followed by venue 8009 (Baral High School, Kol-154, total number of qualified candidate from this venue 30). Venue wise list of qualified candidates is also enclosed as Annexure - XX.

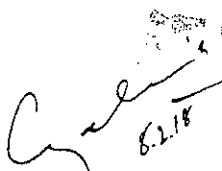
8.5 According to UMC technologies (P) Ltd vide Annexure (XXI) and Annexure (XXII) there was no applicant from Delhi State. But 13 candidates having their addresses at Delhi have been qualified. UMC has further replied that as per application software, only the IP address of remote system and the date and time stamp of Registration saved in the database. So, UMC has failed to detect number of candidate from Delhi Circle, though IP addresses of remote systems from where those candidates applied were in their database.


9. Responsibility of the Vendor:

The overall in-charge of this selection process was the UMC Technologies. The irregularities as observed to have occurred and pointed out in the earlier Paras, the agency is solely responsible. The agency cannot rule out irregularities in the entire examination process as well as their responsibilities in this regard.

10. Recommendation for Systemic Improvement:

The OMR sheets used in this examination had no identification. As a result it was not possible to identify a particular OMR sheet which was given to a particular candidate. There is possibility of replacing the OMR sheets of


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candidates subsequently. To arrest this possibility it is absolutely necessary to identify each OMR sheet with a unique identification number and keep record of this unique number of OMR sheet in respect of each candidate which was provided to him in the examination hall. A methodology should be evolved in such way, once the OMR sheet with unique number is generated, the system would not allow generating further OMR sheet of that particular unique number.

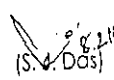
11. Recommendation for Action:


The committee has observed irregularities in the selection of successful candidates. It has also noted irregularities in the paper of those who did not qualify. Out of 438 candidates qualified, as discussed vide Para 4, 46 (forty six) were actually not fit due to reason stated. In a small sample of 51 non-qualified candidates 06 (six) had these lapses also. This indicates that the whole exam was vitiated by the agency conducting the exam and thus it can be concluded that the examination was not conducted in a fair / free and impartial manner.

Hence, the Committee strongly recommends for cancellation of this recruitment and also recommends for initiation of fresh recruitment process.

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 APMG (Vigilance)
 Circle Office

 8.1.18
 (S. Dasgupta)
 ADPS (Inv. & Court)
 Circle Office

 8.2.18
 (S. V. Das)
 ASPOs (Vigilance)
 Circle Office

 8.2.18
 (K. Banerjee)
 ASPOs (Inv.)
 Circle Office

5. The applicants have claimed that they are not the tainted candidates and, therefore, the respondents ought to have segregated the tainted candidates (as noted supra) and allowed the applicants and other participants, who have gone through the rigours of selection process, to be appointed. To fortify his contention, Ld. Counsel, Mr. Mitra, would place reliance upon the following decisions, elaborated herein below:

(1) **Monu Tomar Vs Union of India & Ors., Civil Appeal No. 10513/2016,** where the Hon'ble Apex Court observed and held as under:

"We have also perused the report of the Vigilance Committee set up by the Department.

We find from a perusal of the report of the Vigilance Committee that the entire examination was not necessarily vitiated but some persons who are suspected of having used malpractices in the examination of Postal Assistant/Sorting Assistant in five circles, viz., Uttarakhand, Rajasthan, Chhattisgarh, Haryana and Gujarat have actually been

identified. The respondents will proceed against them in accordance with law but since they are quite a few in number, a formal show cause notice is dispensed with. However, they may be personally called and explained the allegations against them and given some reasonable time of about a week or ten days to give their reply to the allegations and then a final decision may be taken.

Those persons who are not suspected of having committed any malpractices and who have undergone the prescribed courses may be reinstated with all 3 consequential benefits and 50% back wages with liberty to the respondents to take action against them in case subsequently it is found in the investigation that they have indulged in some malpractices."

(2) R.S.Mittal Vs. Union of India, reported in 1995 Supp (2) SCC 230, where

the Hon'ble Apex Court observed and held as follows:

"10. The Tribunal dismissed the application by the impugned judgment on the following reasoning:

(a) The selection-panel was merely a list of person found suitable and does not clothe the applications with any right of appointment. The recommendations of the Selection Board were directory and not therefore enforceable by issue of a writ of mandamus by the Court.

(b) The letter of Ministry of Home Affairs dated 8-2-1982 which extends the life of panel till exhausted is not relevant in the present case. In,, the circumstances the life of the panel in this case cannot go beyond 18 months and as such expired in July, 1989.

It is no doubt correct that a person on the select- panel has no vested right to be appointed to the post for which he has been selected. He has a right to be considered for appointment. But at the same time, the appointing authority cannot ignore the select-panel or decline to make the appointment on its whims. When a person has been selected by the Selection Board and there is a vacancy which can be offered to him, keeping in view his merit position, then, ordinarily, there is no justification to ignore him for appointment. There has to be a justifiable reason to decline to appoint a person who is on the select-panel. In the present case, there has been a mere inaction on the part of the Government. No reason whatsoever, not to talk of a justifiable reason, was given as to why the appointments were not offered to the candidates expeditiously and in accordance with law. The appointment

should have been offered to Mr. Murgod within a reasonable time of availability of the vacancy and thereafter to the next candidate. The Central Government's approach in this case was wholly unjustified".

(3) Union of India & Ors. Vs. Kali Dass Batish & Anr., (2006) 1 SCC 779,

wherein the Hon'ble Apex Court held as under:

"In Punjab SEB v. Malkiat Singh, this Court reiterated the observations of the Constitution Bench of this Court in Shankarsan Dash v. Union of India as under:

"7. It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted. This correct position has been consistently followed by this Court, and we do not find any discordant note in the decisions in State of Haryana v. Subhash Chander Marwaha, Neelima Shangla v. State of Haryana or Jatinder Kumar v. State of Punjab ."

This, in our view, is the correct approach to be adopted in dealing with a matter of this nature."


(4) Lt. CDR. M. Ramesh vs Union of India & Ors., AIR 2018 SC 1965. It was

held by the Hon'ble Apex Court therein that "It is, thus, well settled that merely because a person has been selected, does not give that person an indefeasible right of claiming appointment. As far as the present cases are concerned, results have not been declared and even the selection process is not complete. As such,

there is no manner of doubt that the petitioners have no enforceable right to claim that the result should be declared or that they should be appointed if found meritorious.

(5) A decision of this Tribunal in batch cases starting with **O.A. No. 1928/2010, rendered on 04.02.2011**, where all the O.As. were concerned with the different facets of the same selection process culminating in the cancellation of selection. This Tribunal found that *"the applicants of these OAs can broadly be classified in three groups namely (a) those who had been appointed (b) those who had completed their training but the appointment orders were yet to be issued (c) those who were not at all sent for training or had only completed part of training. They can also be sub-classified into (a) persons who approached the Tribunal after issue of letter dt. 8.7.2010 suspending the recruitment process and issue of notification for vacancies of 2009-10 and (b) those who approached after the decision of Department of Posts to cancel the entire selection. They all seek quashing of the order cancelling the selection and grant of consequential benefits"*. This Tribunal observed that *"there was nothing on record to suggest that tainted cases, if any, could be segregated. Discussions in paragraph 55 and 56 therein, would lead to the conclusion that the action of the authority was with a pre-conceived notion" and "allowed the application and set aside the order of cancellation and/or withholding of the process of appointment" and, while doing so, the Tribunal "directed payment of arrear salary along with interest at the rate of nine percent per annum"*.

7. The ratio of the decisions cited by Ld. Counsel when applied to the facts noted and enumerated supra, rarely give us any occasion to take a view of upholding the decision of the authorities to cancel the entire selection process.



8. The matter was heard on several occasions. What transpired on the last date of hearing was that, that 439 vacancies of the said 2015 notification have been en bloc kept aside and that such 439 vacancies not filled up till date. However, subsequent selection process of June, 2018 and October, 2018 have been conducted, proceeded with and the corresponding vacancies have been filled up already.

9. The tainted candidates being clearly and manifestly earmarked, as would appear from the vigilance reports, the vacancies being indubitably and irrefutably available as admitted by Respondents at the Bar, we can simply direct the authorities to segregate the ones named in the report, upon due notice to the candidates likely to be affected due to segregation and proceed with the selection and allow the untainted ones to be appointed. Entire exercise be completed by three months.

10. O.A., as well as M.As., are accordingly disposed of. No costs.

(N. Neihisal)
Member (A)

(Bidisha Banerjee)
Member (J)

RK