

(Reserved on 23.07.2019)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
(Circuit Bench at Nainital)

Original Application No. 331/00198/2019

Dated: This the 25th day of July, 2019.

PRESENT:

HON'BLE MS. AJANTA DAYALAN, MEMBER (A)
HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)

1. Vikas (Male), aged about 23 years, S/o Ramphal, resident of VPO Sudkain Kalan,, Tehsil Narwana, District Jind, Haryana.
2. Hirendra Singh Arya (Male), aged about 23 years, S/o Sri Dalbeer Singh, resident of VPO – Bhartana, Tehsil Safidon, District Jind, Haryana.
3. Ankush (Male), aged about 23 years, S/o Sri Jasbir Singh, resident of VPO – Bhartana, Tehsil Safidon, District Jind, Haryana.
4. Vikas Parmar, aeged about 27 years, Son of Madhav Singh Parmar, Resident of 37/K, Collectorate Colony, Masjid Mohalla, Uttar Kashi Tiloth, Uttarakhand. . . . Applicants

By Adv: Shri Ashish Malhotra

V E R S U S

1. Union of India through Secretary, Ministry of Environment Forests and Climate Change, New Delhi.
2. Forest Research Institute, Dehradun through its Director, P.O. New Forest, Dehradun.
3. Indian Council of Forestry Research and Education, through its Secretary / Director General, P.O. New Forest, Dehradun – 248006.
4. Director Forest Research Institute, Dehradun through its Director, P.O New Forest, Dehradun – 248006.
5. Registrar, Forest Research Institute, Dehradun, P.O New Forest, Dehradun - 248006.

. . . Respondents

By Adv: Shri Vikas Pandey

O R D E R

Delivered by Hon'ble Ms. Ajanta Dayalan, Member(A)

The present OA has been filed by the applicants Vikas and three others seeking quashing of notice dated 13.02.2019 (Annexure A-1) cancelling the result of the written examination conducted for posts at Sl. No. 2, 6 and 8 due to administrative reasons. The applicants have also

sought direction for withdrawal of notice dated 13.02.2019 and declaring the result of the applicants.

2. Learned counsel for the applicants stated that vide advertisement at Annexure A-2, Forest Research Institute (in short FRI), Dehradun advertised for filling up posts in 8 different categories. The applicants applied for the post of Technician (Field/Lab Research) and were duly shortlisted in written examination (Annexure A-4). They also appeared for documents verification in September 2018, as required by the respondents (Annexure A-5). However, later the impugned order dated 13.02.2019 was issued on the website of FRI stating that the result of 3 categories namely Technician (Field / Lab Research), Lower Division Clerk and Multi Tasking Staff have been cancelled as per the decision taken by the FRI.

3. The case of the applicants is that the grounds given for cancellation of result are only 'due to some administrative reasons'. These grounds are non-specific and vague. Moreover, the results of only 3 categories out of total 8 categories for which exams were conducted have been cancelled. According to the applicants, this is discriminatory and without justification.

4. Learned counsel for the applicants also argued that in a similar exam conducted at Jabalpur, only the persons found guilty of malpractice during examination have been identified and action has been taken against them. The counsel for the applicants stated that similarly in this case also specific candidates who were indulging in malpractice, should have been identified and action should have been taken against them and the whole examination should not have been cancelled. In view of these, learned counsel for the applicants stated that the impugned notice dated 13.02.2019 needs to be set aside and direction needs to be issued to the

competent authority to declare the results of the written exam of 3 categories, which has been withheld.

5. Learned counsel for the respondents contested the claim of the applicants. He stated that the written examination was conducted for 8 categories. However, malpractice was suspected only in 3 categories. The matter was referred to a committee of 5 members. The Committee held meeting on 17.12.2018 and 07.01.2019. Minutes of the meeting of 07.01.2019 are at Annexure-9 to the counter affidavit. The Committee found that in 3 exams that is Lower Division Clerk, Technician (Field/Lab Research) and Multi Tasking Staff, there was high proportion of candidates from a few districts of Haryana. The Committee analysed the pattern of wrong answers attempted by the candidates and came to the conclusion that the data for these 3 exams revealed that pattern of wrong questions attempted by the candidates from Haryana was almost similar whereas the data of candidates from the other States showed a diverse pattern. These raised doubt on the candidates from the Haryana for their involvement in malpractice in these 3 exams. Besides, the learned counsel for the respondents stated that FRI had also earlier obtained report of Senior Superintendent of Police, Dehradun about the malpractice in the exam and SSP in his report had indicated that of the shortlisted candidates, as many as 65 percent were from the State of Haryana alone. He had, therefore, concluded that there is suspicion of malpractice in these 3 categories. Report of the SSP is annexed at Annexure-10 of the counter affidavit. Learned counsel for the respondents also stated that some candidates were also found using mobile phone and bluetooth device. It was in view of such clear evidence of malpractice that the whole examination process was cancelled.

6. Learned counsel for the respondents further stated that there was a similar case in Tropical Forest Research Institute (Jabalpur) where about

11 candidates from Haryana were found involved in malpractice. SSP, Dehradun in his report has also indicated that there is doubt of malpractice by the candidates of Haryana in Group 'C' recruitment exam of FRI, Dehradun as occurred in TFRI, Jabalpur.

7. Learned counsel for the respondents further stated that there is no reason to allege discrimination. The written exam has been cancelled for the 3 categories and re-examination is to be conducted and no fees is to be paid for re-examination by the candidates who had already appeared in the earlier examinations that have been cancelled. He also stated that the cancellation of the examination is based on clear cut evidence of malpractice and since malpractice was so wide spread and individuals cannot be identified, the whole examination had to be cancelled. In this connection, he placed reliance on the judgment of Hon'ble Supreme Court in the case of Union of India and others vs. O. Chakradhar – (2003) 3 SCC 146 wherein Hon'ble Apex Court has observed as follows: -

“8. In our view the nature and the extent of illegalities and irregularities committed in conducting a selection will have to be scrutinized in each case so as to come to a conclusion about future course of action to be adopted in the matter. If the mischief played is so widespread and all-pervasive, affecting the result, so as to make it difficult to pick out the persons who have been unlawfully benefited or wrongfully deprived of their selection, in such cases it will neither be possible nor necessary to issue individual show-cause notices to each selectee. The only way out would be to cancel the whole selection. Motive behind the irregularities committed also has its relevance.”

8. We have heard Ms. Manika Tripathi, brief holder of Shri Ashish Malhotra, learned counsel for the applicants and Shri Vikas Pandey, learned counsel for the respondents. We have also gone through the pleadings of the case.

9. Firstly, we find that the applicant no. 2 is nowhere in the list of candidates called for documents verification (Annexure A-4). This statement is despite a categorical statement made in para 4.2 of OA that the applicants were short listed for written exam and were asked to appear for documents verification as per the Annexure A-4. This is, however, not borne out by Annexure A-4. There is one Hirendra Singh, but no Hirendra Singh Arya, who is applicant no. 2. The applicant No. 2 is, therefore, not covered and the OA in his respect is dismissed. The remaining part of this order will refer only to the applicants 1, 3 and 4.

10. Coming to the issue in the OA, we find that it is true that the exam of 8 categories was held by FRI, Dehradun. We also observe that the dates of the examinations for different categories are different. The examinations for categories at Sl. No. 2 and 6 were conducted on 29.07.2018 and for category at Sl. No. 8 was conducted on 04.08.2018. Exams for other 5 categories were not conducted on these dates. Hence, prime facie, possibility of different practices in different exams cannot be eliminated.

11. We have also gone through the report of SSP regarding malpractice in the written exam. We find that the report is quite detailed. The reports states that mobile phone from 4 candidates and bluetooth devices from 2 candidates were recovered during the examination and those candidates were expelled from the examination hall. Of these 6 candidates, 4 were from Haryana and 2 from Uttarakhand. Most importantly, the report states that of the short listed candidates, about 65% were only from 2 districts of Haryana - that is Jind and Hisar. The report then goes on to refer to Jabalpur exam where malpractice by candidates of Haryana, who used mobile phone and bluetooth devices during the exam, was highlighted in numerous news papers and there also 75% of short listed candidates were found from Jind and Hisar districts of Haryana. In Dehradun also, as many as 65% short listed candidates were found to be

from Haryana raising doubt of malpractice. In view of this, we find there is strong evidence to believe that mass scale malpractice could have taken place in these examinations.

12. Further, we have gone through the minutes of the meeting of the Committee constituted by the FRI and we find that the Committee analysed the OMR sheets of the candidates from Haryana for the 3 examinations vis-a-vis OMR sheets of candidates from other states. The Committee came to the conclusion that pattern of wrong answers of questions attempted by the candidates from Haryana was similar; but it was diverse from the pattern of the candidates of other States. The Committee, therefore, came to the conclusion that in view of above and high representations of candidates from Haryana in the 3 exams, there is a doubt of malpractice.

13. We note that the above facts further substantiate suspicion of malpractice in a major way. As such, we find the Committee report and its findings to be fully justified and based on evidence available with them. We also note that in case of such wide spread malpractice, there can be no other alternative than cancelling of whole selection process. Declaration of result of such examination conducted in such doubtful circumstances may only result in vesting right with some candidates who have obtained this right by illegal means. We, therefore, have no doubt that the decision of cancellation of examination by the FRI was justified in view of strong evidence of malpractice. The order dated 13.02.2019 cancelling exam in 3 categories is, therefore, proper and does not deserve any interference.

14. In view of all above, the OA is devoid of merits and is dismissed. No costs.

(Rakesh Sagar Jain)

Member (J)

(Ajanta Dayalan)

Member (A)

Anand...