

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
CIVIL WRIT PETITION NO.11470 OF 2015

The Union of India }
 through the Assistant Director of Postal
 Services (Recruitment) O/C Chief Post-Master }
 General, Maharashtra Circle,GPO
 WH Marg, Mumbai-400 001. } .. Petitioners

vs

1. Komal Ashok Sakharkar & ors
 Aged 24 years, R/at Room No.80,
 Chawl No.10, Pantnagar Naidu Colony,
 Sankraman Shibi Chawl, Mumbai-400 075. } .. Respondents

with

WRIT PETITION NO.11285 OF 2015

1.Komal Ashok Sakharkar & ors .. Petitioners

vs

1.The Union of India & ors .. Respondents

with

CIVIL APPLICATION NO.3273 OF 2015

in

WRIT PETITION NO.11470 OF 2015

The Union of India .. Applicants

vs

Komal A.Sakharkar & ors .. Respondents

with

CIVIL APPLICATION NO.3272 OF 2015

in

WRIT PETITION NO.11470 OF 2015

Prashant Mahadev Jagtap & ors . ..Applicants/Intervenors

vs

Union of India .. Respondents

with

CIVIL APPLICATION NO.3268 OF 2015

in

WRIT PETITION NO.11285 OF 2015

Pravin Rambhau Barapatre & ors ... Applicants
vs
Komal Ashok Sakharkar & ors .. Respondents

Appearances

For the Petitioners Mr.Rui Rodrigues a/w Mr.A.M.Sethna
i/b Mr.Pranil Sonawane in W.P.No.11470/2015

For Applicant Mr.Rahul Kalangiwale a/w
Mr.A.A.Desai in C.A.No3273/2015

For Applicant Mr.A.A.Dandekar i/b Mr.Singh Y.R.
In C.A.No.3272/2015

For Respondent nos.1,3,5, Ms.Priyanka Mehndiratta

...
**CORAM: ANOOP V.MOHTA AND
G.S.KULKARNI, JJ**
JUDGMENT RESERVED ON: 10th FEBRUARY 2016
JUDGMENT PRONOUNCED ON: 23rd FEBRUARY 2016

JUDGMENT (Per G.S.Kulkarni, J)

1. Heard learned counsel for the Petitioners, learned counsel for the Respondents and learned counsel for Intervenors in Civil Application Nos.3273 of 2015 and 3272 of 2015.

2. Both the Writ Petitions assail the judgment and order dated 31 July 2015 passed by the Central Administrative Tribunal, Mumbai Bench (for

short 'Tribunal'), passed in a batch of original applications. Writ Petition No.11470 of 2015 is filed by the Union of India and Writ Petition No.11285 of 2015 has been filed by the original Petitioners before the Central Administrative Tribunal.

3. The challenge as raised on behalf of the Union of India to the orders passed by the Tribunal is to the extent the Tribunal has directed to hold re-examination of Paper-II without disturbing the result of Paper-I for the candidates who appeared initially for the said Paper. The challenge as raised by the private parties in the second Writ petition is to the extent Tribunal has not accepted their prayer that the first merit list be implemented and acted upon.

4. For the sake of convenience we refer to the parties as they are arrayed in the writ petition filed by the Union of India. The Petitioner-Union of India through the Chief Post-Master General issued a notification dated 22 February 2014 for recruitment to the posts of Postal Assistant/Sorting Assistant in post offices so as to fill up 1098 vacancies in the pay-scale of Rs.5200-20-200 plus grade pay of Rs.2400/- in Maharashtra Circle. Applications were invited by the on-line method. The respondents had fulfilled the eligibility and therefore, applied to the said posts. There was a requirement of a written examination in

which the respondents appeared and had qualified. Thereafter, the respondents were called upon to appear for the practical test in Paper-II which were comprising of Typing Test (TE) and Data Entry test (DE) as held on 8 November, 2014. As per rules Paper II was qualifying in nature. Marks obtained in Paper-II were not to be added in Paper-I i.e. written examination and merit list was to be drawn up on the basis of marks obtained in Paper-I only, after the candidates qualify in Paper-II for which minimum marks for general, OBC and SC/ST categories were prescribed. On 4 December 2014 results of the examinations were declared by publishing a category-wise select/merit list of 1098 candidates. Since the respondents had qualified in Paper-II their names were included in a select/merit list. This is referred to as “**first merit/select list.**” Further divisions were allotted to select list candidates. The select list and a list allotting divisions was approved on 7 January 2015 and also was published on official web-site of the Department.

5. After the above exercise was completed another select list referred to as the “**second merit/select list**” and a wait list of candidates came to be notified on 15/16 January 2015. Names of the candidates who were included in the first merit/ select list were not found in the second merit list although some of them were placed on the waiting list. This list also included the names of such

candidates whose names were not appearing in the first merit/select list.

6. The respondents in their Original Application were aggrieved by the second select list and thus made a grievance that the Petitioners could not have replaced the first select list. The respondent's contention was that rights had accrued to the respondents for appointment under the first select list and these rights were crystallized in the publication of the first select list on 1 December 2014 and the subsequent action of allotment of divisions to them. There was no reason for notifying the second select list. The entire exercise in issuing the second select list and which also included an action on the part of the Petitioners to increase the number of vacancies in the select list was also not permissible. These actions of the Petitioners were wholly illegal and on extraneous consideration. The respondents thus approached the Tribunal by filing various original applications.

7. The Petitioners appeared before the Tribunal and contended that holding of examinations and publication of merit list was outsourced by the Petitioners to an agency namely Computer Maintenance Corporation ('CMC') a reputed agency with a twenty five year standing in the field of conducting examinations in various Government Departments. The Petitioners contended

that after the results of examinations were published on 7 January 2015 it was revealed that the methodology adopted by the CMC for ascertaining the marks meant for computer test and typing test were erroneous since the marks for typing test were wrongly decoded. As to what was the nature of technical error on the part of the CMC has been elaborately extracted and discussed in paragraph 16 to 18 of the impugned order passed by the Tribunal. What is significant is the categorical stand of the Petitioners that as a result of these errors on the part of CMC, Typing test (TE) values got corrupted which resulted in incorrect calculations of score for Typing test (TE) and which affected a large number of candidates in Paper-II. This error was noticed on verification of scores of marks of Paper-II, on receipt of a telephonic complaint by a candidate. In view of these defects the marks of DE (Data entry) test were considered wrongly for Typing test (TE) also. Thus a fresh exercise was required to be undertaken to assess the marks correctly. A rectification was accordingly undertaken by giving a separate Barcode for Typing test and retaining the Barcode for the Data Entry Test used earlier for calculating scores in the said test. Proper formula was applied and score obtained in Typing test was noted. On this exercise being undertaken a second merit list dated 15/16 January 2015 came to be issued. In this whole exercise, several candidates who were part of the first select list were required to be deleted in view of they not getting aggregate 40% marks in the DE

and TE and thus not meeting minimum eligibility criteria for being placed in the select list.

8. By its order dated 2nd March 2015 the Tribunal admitted the original applications filed by the respondents and granted stay on the second select list dated 15/16 January 2015. The Petitioners thereafter sought vacating of the interim stay inter alia contending that in issuing the first select list admittedly a human error had crept-in, leading to the publication of the wrong results. It was contended that thereafter a corrective procedure was undertaken by the CMC by invoking manual re-checking, which resulted in publication of the second select list of qualified candidates and the petitioners accordingly justified the issuance of the second select list. The Tribunal passed an order 7 May 2015 observing that it would not be possible to adjudicate as to which is the correct list as the process involved use of computer technology which was beyond the competence of the Tribunal and thus it would be possible to ascertain as to what went wrong only with the help of an independent Computer Expert of repute. Such measure if taken would not be contrary to the settled law. The Tribunal therefore, directed that it would be appropriate to appoint an expert organization for technical scrutiny of the full process with the objective of arriving at the correct merit list and to pinpoint as to what went wrong in the first

evaluation. All parties agreed to this course of action. The scope of the report to be submitted by the expert organization as directed by the Tribunal was as follows:

“(i) Root Cause Analysis (RCA) as to what went wrong.

(ii) To evaluate/test the scores, at least two more times by running the software.

(iii) To check, by taking a sample of cases, including the cases of applicants and some others random cases totaling not less 5% of the total number of candidates who have not been selected in order to cross-verify the results of subsequent runs with the second result as well as physical answer sheet.

(iv) Justification for the basis on which 277 cases show common scores after rectification exercise.

(v) Whether any malafide can be attributed to the whole or any part of the process.

(vi) Any other.”

9. Accordingly, the issue was referred to C-DAC (Centre for Development of Advanced Computer, Pune), a scientific society of Ministry of Communication and Information Technology, Government of India. The C-DAC called for a meeting of the concerned Officials from the Department of Posts, and representatives of the CMC on 19 May 2015. C-DAC scrutinized the entire data pertaining to DE and TE tests and submitted a detailed report along with a summary sheet vide its letter dated 15 June 2015.

10. After receipt of the report the Tribunal set down the original applications for hearing. Parties were heard on the expert report submitted by C-DAC. so as to adjudicate on the controversy on the sanctity of the first or the second select list. The Tribunal on a complete scrutiny of the matter and on examining the report as submitted by C-DAC has observed that there was serious error on the part of CMC which had failed to verify and cross check the tabulation of marks obtained by candidates in Paper-II. These lapses on the part of CMC had resulted in loss of credibility which seriously jeopardized the authenticity and integrity of the entire selection process. It was observed that despite the petitioners noticing errors and infirmities test were not cancelled and on the contrary a rectification exercise was undertaken after declaration of results and/or publication of the first select list and before issuance of appointment letters to the selected candidates. The Tribunal has recorded that there was obviously a human act in application of proper Barcode while undertaking evaluation of Paper-II. A casual attitude was adopted by the petitioners inasmuch as higher officials in the Department who had initiated the process had not realized the seriousness of the issue so also by the top ranking Officers of the CMC. If no complaint was to be lodged in respect of the first select list the incorrect select list prepared by CMC and approved by the Petitioners could have been acted upon by issuing appointment orders to the candidates causing

grave injustice to the real successful candidates. The Tribunal has observed in great detail as to why sanctity cannot be accorded to the rectification exercise undertaken by the Petitioners to publish the second select list and it was observed that the only way to resolve the issue was to hold re-examination of Paper-II without disturbing the marks obtained in Paper-I namely the written test. The Tribunal accordingly rejecting the prayers of the respondents that first select list be implemented and issued the following directions as contained in paragraph 74 of the impugned order :-

“ 74 (b) However, inspite of dismissal of the OAs, the impugned second merit list duly approved by the respondents on rectification of error shall not be acted upon or implemented, since re-examination of paper II is being directed.

(c) As such, without disturbing the result of Paper I i.e written examination, the respondents are directed to hold re-examination of Paper II for 5056 candidates who appeared initially in the said Paper II within a period of three months from the date of receipt of copy of this order and then prepare fresh select list as per rules.

(d) The respondents will however, be at liberty to engage services of an independent agency other than CMC, having sufficient experience in the field for holding re-examination of Paper II.

(e) The respondent no.2 is directed to nominate a senior Officer working under him not below the rank of Joint Director, who shall supervise the entire process of holding re-examination of Paper II and its evaluation to ensure that no error crops up or repeated in assessment of the marks obtained by candidates in Data Entry Test and Typing Test (Paper II).

(f) After holding re-examination of Paper II above, a merit list be prepared taking into consideration the marks obtained by the candidates in Paper I and who qualified in Paper II and further necessary steps be taken to complete the recruitment process.

(g) The respondents will be at liberty to take appropriate action against CMC for the error committed, if they so desire.”

11. The above directions of the Tribunal and more particularly directions (b) and c) above are assailed by the petitioners and the private respondents in their respective Writ Petitions. The Intervenors also have a grievance that though they were not parties before the Tribunal they feel aggrieved by the directions of the Tribunal as their names appear in the second merit list which is being directed to be not acted upon.

12. We have accordingly heard learned counsel for the Petitioners, Respondents and the Intervenors. Learned counsel for the Petitioner-Union of India contends that directions of the Tribunal that second merit list should not be acted upon and that re-examination be undertaken in respect of Paper II is wholly illegal and without jurisdiction in as much as it is not prayer of either of the parties that re-examination of Paper II be conducted. It is submitted that Petitioners had undertaken an exercise of rectification with the help of CMC and having rectified the anomalies, the second list would have a complete sanctity.

Learned counsel has taken us through the observations of the Tribunal as also the report submitted by the C-DAC to the Tribunal. It is submitted that the report of the C-DAC would not suggest cancellation of the second list. It is submitted that the cancellation of the second select list would cause serious prejudice to the Department in as much as to implement the directions as issued by the Tribunal would take some time and in the meantime which would delay filling of the posts.

13. On the other hand, learned counsel for the respondents submits that the Tribunal was in error in rejecting the original applications and in rejecting their prayers to implement the first merit list in which names of these private respondents appeared. This has conferred legal rights in the respondents to seek appointment on the basis of the first select list. The prayers of the respondents for issuance of appointment orders on the basis of first merit list thus ought to have been granted by the tribunal. It is submitted that the first select list was prepared by undertaking an appropriate exercise and that action of the petitioners to issue a second select list was illegal and which has caused serious prejudice to these respondents.

14. On behalf of the Intervenors, it is submitted that the second

select list in which names of Intervenors have appeared was the correct select list which was prepared by the petitioners after rectification of the infirmities which had occurred in preparation of the first select list and therefore the second list ought to have been given effect to. It is submitted that appointment letters ought to have been issued to the Intervenors on the basis of the second merit list. Thus, they are seriously prejudiced on account of the directions issued by the Tribunal. In support of its submissions learned counsel for the Intervenors has relied on the decision of the Supreme Court in **All India SC/ST Employees Association vs A.Arthur Jeen & ors reported (2001) 6 Supreme Court Cases 380** to contend that the Intervenors would have a legal right to defend the second select list.

15. With the assistance of learned counsel for the parties, we have perused the impugned order as also we have gone through the various documents as placed on record as also report of the C-DAC as tendered on behalf of the learned counsel for the Union of India. It is quite clear that there was a serious infirmity in regard to the first merit list which came to be published on 4 December 2014 and as confirmed by allotment of divisions on 7 January 2015. A complaint came to be made by one of the candidate that there were defects in recording marks of Paper-II. The petitioners therefore undertook a rectification exercise by notifying the second select list by which a completely changed

position had surfaced whereby the names of number of candidates who appeared in the first select list came to be deleted for the reason that these candidates did not fulfill the eligibility criteria. The Department in the written notes of arguments submitted before the Tribunal has set out the exact error as under :

“5. From the Barcode relating to data entry test, the last 3 digits where the actual marks such that the 3rd last digit was the decimal whereas in respect of typist test from the Barcodes meant for the typing test only, digit nos.2,3 and 4 were to be considered as scores secured in the typist test. Such that the 2nd,3rd,and 4th digits were to be first multiplied by 40 and then divided by 30 to arrive at the correct marks obtained by the candidate in the typist test. The respondents are enclosing herewith Annexure B wherein the 10 Applicants in OA No.143 of 2015, 9 Applicants in OA No.187 of 2015 and 20 Applicants in OA No.211/00085/2015 have been set out. A careful perusal of the results in Annexure B would show that as to how in the first instance when the results were put up on the website on 8/1/2015, error had occurred and thereafter when the correct results were put up on the website on 16th February 2015. A careful perusal of this table at Annexure B would clearly demonstrate as to how 39 Applicants in the 3 OAs had initially been declared as selected, albeit erroneously and further how the error came to be corrected by reading the correct barcodes for the data entry test on the one hand and the typing test on the other, respectively.”

16. Admittedly a rectification exercise was undertaken by the CMC after having noted human error which had cropped in and on the basis of this so called rectification exercise the second select list dated 15/16 January 2015 came to be issued. It is further an admitted position that there was a serious error in evaluation of Paper-II in the computer method/Technology and Barcode adopted by the CMC. The basic data appeared to have been altered after declaration of

results/publication of first select list. There is no doubt that there are serious mistakes in evaluation of Paper-II and allocation of Paper-II which would adversely affect the entire selection process and the merit position of the respective candidates. In fact, we are surprised as to how a rectification exercise was undertaken by the CMC when original methodology in preparation of the first merit list was itself found to be defective and on which both Union of India and CMC are ad-idem.

17. The Tribunal in our opinion has appropriately examined the issues and has rightly observed that a serious prejudiced would be caused to a large number of candidates and that in the fact situation neither of the list can be given effect to. The Tribunal had adopted a cautious approach in appointing C-DAC by consent of the parties as an expert to examine the entire issue. Accordingly, a report was submitted by C-DAC on 5 June 2015.

18. We have perused this report of the C-DAC. It is extensive and the observations are significant. The findings throws a complete light on the manner the test was conducted by CMC which in our opinion goes to the root of the matter. The relevant observations in the report read thus :-

“(10) To sum up:

(i) Root Cause Analysis (RCA) as to what went wrong-

C-DAC response - It seems that verification / cross checking of the inputs entered and output generated by manual entries was not done by CMC/DOP. This might have led to wrong results because of wrong manual inputs to software. In short, wrong manual input to the software and non-cross checking / verification of the inputs and outputs appears to be the root cause.

(ii) To evaluate / test the scores, at least, two more times by running the software-

C-DAC response – As per the Hon'ble CAT, Mumbai order, the entire exercise was carried out and physically checked twice for the records as mentioned in 9 (B) above by C-DAC. No anomalies were noticed in the 1st result and 2nd result of TE and DE scores.

(iii) To check by taking a sample of cases, including the cases of applicants and some other random cases totaling not less than 5% of the total number of candidates who have not been selected in order to cross-verify the results of subsequent runs with the second result as well as the physical answer sheets.

C-DAC response – This was done as mentioned in Para no.9 III case 4 above and no anomalies were noticed.

(iv) Justification for the basis on which 277 cases show common scores after rectification exercise.

C-DAC response: This was done as mentioned in Para no.9 III case 3 above and no anomalies found. Please refer to the para 9 © IV for justification.

(v) Whether any malafide can be attributed to the whole or any part of the process -

C-DAC response- It is very difficult to find out/ assess the intention of the parties and malafides particularly. However, since the verification done by C-DAC shows that the results of DE and TE tests, generated by C-DAC are same as that of CMC it is felt that mistake committed were human

errors because of wrong inputs and non-cross checking/verification of outputs.

(vi) Any other: C-DAC observed following shortcomings in the processes followed by CMC. In C-DAC's opinion, these shortcomings/deficiencies in the processes should have been avoided by CMC being CMM level 5 company.

(vi) (1) CMC has not specified the Anti-Virus package which had to be installed on computers of hired labs used for conducting the tests.

- (2) No test cases were prepared to check any of process.
- (3) No identification was made to differentiate between the DE and TE files.
- (4) Software was not certified by any testing agency like STQC or by any of its empanelled agencies.
- (5) The process was dependent upon manual entry inputs/outputs provided to/by the software.
- (6) No checking/cross verification was done for manual inputs/outputs provided to by the software.
- (7) No Technical Manuals for the software developed have been prepared by CMC. On request by C-DAC officials CMC provided the Power Point (ppt) and 2-page brief of the procedure to be followed for using its software.
- (8) Backup of the entire data should have been maintained and stored securely (irrespective of whether the files were corrupted or not) by CMC till the completion of the recruitment process by Department of Posts."

19. These findings leave no manner of doubt that no sanctity can be accorded to the evaluation and consequent marks which are allocated by CMC in respect of Paper-II namely DE and TE. Therefore, evaluation of Paper-II at the hands of the CMC, in our opinion, could not have been taken into consideration even in the preparation of second merit list. We find no error or perversity in the

approach of the Tribunal in coming to a conclusion that evaluation and allocation of marks in respect of Paper-II in no manner could have been taken into consideration. Eventually the second merit list would lack sanctity in view of the short comings which are noted by C-DAC.

20. We thus, cannot accept the submissions as made on behalf of the Intervenor who contend that the second select list ought to be implemented. Admittedly, in our clear opinion only because the names of the Intervenor appear in the second merit list, would not confer any legal right in the Intervenor to claim any appointment. It is a settled position in law that mere inclusion of the name in the select list would not confer any legal right for appointment. See **(1) Shankaran Das vs. Union of India 1991 (3) SCC 47, (2) Vinod Kumar Pandey vs. Arvind 2013 (1) SCC 611 and (3) State of Orissa vs. Raj Kishor Nanda 2010 (6) SCC 777.** Submissions as made on behalf of the Intervenor are therefore, wholly unfounded. In view of this clear position in law the decision as relied upon by the Intervenor do not assist them.

21. If the petitioners were to implement the orders of the Tribunal, possibly appointments would have been finalized by now. The petitioners however chose to litigate and this has already consumed seven months. Though

it may take some more time to make the appointments, however, it is appropriate that a perfect exercise be undertaken as directed by the Tribunal without causing prejudice and injustice to the candidates who are part of the selection process. A contamination of any nature in the selection process cannot be countenanced. We may observe that the procedure so notified and adopted to conduct the examination and allocation of marks, ought to have been throughout fair, transparent, above suspicion and of a nature which would determine the real merit of the candidates so that no prejudice or discrimination is meted out to any participating candidate. The present facts do not inspire such confidence to hold that any of the lists are absolutely fair and transparent that the Court can put its approval for its implementation.

22. As regards submissions on the part of the Petitioners that the Tribunal had no jurisdiction to order re-examination in our opinion, is wholly mis-conceived. The jurisdiction of the Administrative Tribunal as constituted under the Administrative Tribunal Act, 1985 is conferred under section 14 of the Act which reads thus:

“14. Jurisdiction, powers, and authority of the Central Administrative Tribunal-

(1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable

immediately before that day by all courts (except the Supreme Court in relation-

(a) recruitment and matters concerning recruitment, to any All India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services being in either case, a post filled by a civilian;

(b) all service matters concerning-

- (i) a member of any All India Service; or
- (ii) a person (not being a member of an All India Service or a person referred to in clause (c) appointed to any civil service of the Union or any civil post under the union; or
- (iii) a civilian (not being a member of an All India Service or a person referred to in clause (c) appointed to any defence services or a post connected with defence.

And pertaining to the service of such member, person or civilian in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or, of any Corporation (or society) owned or controlled by the Government.

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b) being a person whose services have been placed by a State Government or any local or other authority or any corporation (or society) or other body at the disposal of the Central Government for such appointment.

Explanation: For the removal of doubt, it is hereby declared that references to Union in this sub-section shall be construed as including references also to a Union Territory.

.....”

23. A plain reading of the above provision makes it clear that the Tribunal would have jurisdiction, power and authority inter alia in relation to

matters of recruitment and concerning recruitment to any All India Services. In the present case, the jurisdiction exercised by the Administrative Tribunal undoubtedly pertains to the appointments to be made in postal department and issues connected therewith. The Tribunal therefore, was wholly within its jurisdiction to issue directions as contained in the impugned order. In this regard we may also usefully refer to the Constitution Bench decision of the Supreme Court in the case of **L.Chandra Kumar vs Union of India (1997) 3 Supreme Court Cases 261** in which the Supreme Court has extensively dealt with the powers and jurisdiction of the Administrative Tribunal to deal with service matters. Looking to the object and scheme of the Administrative Tribunal Act and the jurisdiction conferred on the Administrative Tribunals under the Act, we have no hesitation to reject the contention as raised on behalf of the Petitioner that the Tribunal had no jurisdiction to direct re-examination.

24. Having examined the facts of the case, we find no error or perversity in the approach of the Tribunal to issue directions as contained in the impugned order. The Tribunal has examined the matter from different perspectives and has appropriately come to a conclusion that the only recourse which could be adopted was to have a re-examination of Paper II namely DE and TE tests. If this is undertaken no injustice would be caused to any of the large

number of candidates, who then can be selected and appointed as per their real merit position. We therefore, with certitude dismiss both the writ petitions.

25. Accordingly, the writ petitions are dismissed. Civil Applications of the Intervenor stands disposed of in view of the orders on the writ petitions.

26. At this stage, Mr.Rui Rodrigues, learned counsel appearing for the Union of India seeks a stay of four weeks to the directions of the Tribunal to conduct the re-examination. We may observe that there was no ad interim order, of any stay, to the directions of the Tribunal from the date of filing of the writ petitions. Further, in view of the facts and circumstances and reasons, as noted by us above, this oral prayer for stay is rejected.

(G.S.KULKARNI, J)

(ANOOP V.MOHTA,J)

