

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6193 of 2015

1. The Union of India through the Secretary, Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pension, Block-12, Kendriya Karayalaya Parishar, Lodhi Road, New Delhi.
2. The Staff Selection Commission, through the Joint Secretary, 8A-B, Bailey Road, Allahabad.
3. The Under Secretary (C-II), Government of India, Department of Personnel and Training, Ministry of Personnel, Public Grievance and Pension, Block - 12, Kendriya Karyalaya Parishar, Lodhi Road, New Delhi.
4. The Principal Director C.R. Staff Selection Commission, Government of India 8A-B, Bailey Road, Allahabad.
5. The Deputy Director NOM, Staff Selection Commission, Government of India, 8A-B, Bailey Road, Allahabad.

... .. Petitioner/s

Versus

Rakesh Kumar, son of Binay Kumar, resident of Mogal Bazar, P.O. Basudeopur, District - Munger.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pradeep Kumar, Sr. Advocate. Mr. Radhika Raman, C.G.C.
For the Respondent/s	:	Mr. Gautam Bose, Sr. Advocate. Mr. Vikash Jha, Advocate.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 24-11-2022

On 15.11.2022, inadvertently there is typographic error in mentioning the date 22.05.2019 instead of 22.05.2009.

The same is hereby rectified.

2. The petitioners have assailed the order of the Tribunal dated 07.09.2012 passed in O.A. No. 581 of 2009. Respondent Rakesh Kumar was a candidate for recruitment to the Staff Selection through the examination conducted by the Staff Selection Commission in the year 2009. Respondent no.1



is alleged to have involved in malpractice in the examination process. The same was concluded in passing order that the respondent no.1 is not entitled to appear for future examination.

3. Feeling aggrieved by such a decision / order dated 22.05.2009, he has invoked remedy under Section 19 of the Administrative Tribunal Act, 1985 and presented O.A. No. 581 of 2009 before the Central Administrative Tribunal, Patna Bench, Patna. The Tribunal allowed the original application with with following direction:

“21. In view of the aforesaid observations, the speaking order dated 22.05.2009 is quashed and this OA is disposed of with a direction upon the respondents to allow the applicant to appear at the future examinations of the Staff Selection Commission.

22. With regard to the Graduate Level (Main) Examination, 2020, the authorities shall ascertain the facts from records of the Selection whether the number of answer booklet of the applicant did find any match with the answer booklets allotted to him in “changed room” and whether the hand writings of the applicant in answer booklets are his own, and on being satisfied, grant suitable relief to the applicant who has admittedly succeeded at the Graduate Level (Main) Examination, and viva and was also recommended for appointment. No order is passed as to costs.

4. Feeling aggrieved and dissatisfied with the order of the Tribunal dated 07.09.2012 passed in O.A. No. 581 of 2009, Department filed the present writ petition and obtained interim order in their favour. For the last seven years, interim order is in



operation.

5. Perusal of the records, it is evident that respondent no.1 has not been provided opportunity before passing the adverse order against him to the extent that he is not entitled to appear for future examination. The matter was heard on 15.11.2022 and the following order was passed:

“Matter is relating to selection and appointment to the post of Assistant through the Staff Selection Commission pursuant to the advertisement which is stated to have been issued in the year 2000. The process of selection is stated to have been completed in the year 2009. The selecting authorities noticed that the Respondent - Rakesh Kumar is alleged to have involved in malpractice in the examination. In this regard, investigation/enquiry has been conducted and opinion has been formed that the respondent no. 1 is alleged to have involved in malpractice. Based on such records, the selecting/competent authority proceeded to cancel the candidature of the respondent no. 1 and further debarred for future examination which was subject matter of O.A. No. 581 of 2009. Cancellation of candidature and debarring him for future examination is dated 22.05.2019 (Annexure-1 to the original application) before the Central Administrative Tribunal.

Perusal of order dated 22.05.2009, it is evident that entire proceedings and ultimate decision of the selecting and appointment authority is behind the back of the respondent no.1. Therefore, we find prima facie that necessary modification of the order of the Tribunal dated 07.09.2012 is needed.

In order to give an opportunity to the learned counsel for the petitioner/Union of India/Staff Selection Commission, relist this matter on 23.11.2022.

If there is no representation on behalf of the petitioner on the next date of hearing, matter would



be decided with the available records.”

6. In the light of these facts and circumstances, we are not interfering with the order of the Tribunal dated 07.09.2012 passed in O.A. No. 581 of 2009. The Concerned authority is hereby directed to provide ample opportunity of hearing to the respondent no.1 Rakesh Kumar before taking further action pursuant to the order of the Tribunal. The competent authority is hereby directed to proceed after giving ample opportunity of hearing to the respondent no.1. The competent authority is hereby directed to provide oral hearing as well as written hearing to the respondent no.1. Thereafter, each of the respondent's contention raised orally or written shall be considered and the competent authority shall pass a speaking order and communicate the same to the respondent no.1 within a period of three months from the date of receipt of this order.

7. With the above observation, the present petition stands disposed of.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	03.12.2022
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