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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 18.11.2022

+ **W.P.(C) 6192/2020 & CM APPL. 22189/2020**

NIRAJ SIWACH

..... Petitioner

versus

UNION OF INDIA & ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioners:

Mr. Yudhvair Singh Chauhan, Ms. Shivangi Shokeen and Mr. Aditya Sharma, Advocates with petitioner in person.

For the Respondent:

Ms. Arunima Dwivedi, CGSC with Ms. Pinky Kumar and Mr. Aakash Pathak, Advocates for UOI

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 08.01.2020 of the Central Administrative Tribunal whereby the Tribunal has dismissed the Original Application filed by the petitioner seeking quashing of the rejection of the candidature of the petitioner.

2. The candidature of the petitioner was rejected on the ground that the Ex-Government Examiner for Questionable Documents has opined that the hand-writing/signatures on the application, OMR Sheet, documents verification performa do not match.

3. Learned counsel for the petitioner has relied upon the judgment dated 12.10.2019 in *W.P. (C) No. 6256/2019* titled '*Sombir Vs. Staff Selection Commission & Anr.*'
4. The original application form dated 03.02.2014, OMR sheet dated 09.11.2014, hand-writing recognition form dated 11.08.2015 and the medical memorandum dated 11.08.2015 which were the documents which were examined by the examiner have been produced in Court.
5. The examiner has opined that the person who wrote the red enclosed writing, stamped and marked 'A2' 'A3' and 'A4' did not write the red enclosed writing similarly stamped and marked 'A1'. The question document mark 'A1' is the application form and the admitted documents 'A2' 'A3' and 'A4' are the OMR sheets, hand-writing recognition form and medical memo, respectively.
6. The opinion of the examiner of Questionable Documents confirms that Petitioner is the one who had appeared for the examination as his signatures and hand writing on the OMR Sheet, hand writing recognition form and Medical Memo tally.
7. The impugned order rejecting the candidature on the ground that the Petitioner has resorted to unfair means and resorted to malpractices / unfair means in the said papers is accordingly not supported by the examiners report. The examiners report confirms that the Petitioner is the one who had appeared for the examination.

8. The opinion rendered by examiner is that handwriting and signatures of Petitioner does not tally with his application form. The application form mandates that the application form must be filled by the candidate himself in his own handwriting. On a visual comparison of the writing and signatures on the application form with the OMR Sheet, handwriting recognition form and Medical Memo, it prima facie appears that the same have been written by the same individual.

9. However, even if, the findings of examiner were to be taken into account, at least what is borne out from it is that the person who has appeared in the examination is the Petitioner himself as such there is no malpractice or unfair means adopted by the Petitioner in taking the examination.

10. Even if, there is some dissimilarity in the application form and the OMR Sheet, handwriting recognition form and Medical Memo, the same would not vitiate the examination for the reason that examiner has confirmed that it is the Petitioner himself who had appeared in the examination. For that reason even though the examiner's report records that the application form and the OMR Sheet, handwriting recognition form and Medical Memo do not tally, we are of the view that no malpractice or unfair means can be said to have been adopted by the Petitioner at the time of examination.

11. Consequently, we are of the view that Respondents have erroneously rejected the candidature of the Petitioner.

12. In view of the above, impugned order of the Respondents

cancelling petitioner's candidature and the order of the Tribunal dated 08.01.2020 are not sustainable and are accordingly set aside and the respondents are directed to process the candidature of the petitioner in accordance with law. The exercise be concluded within a period of eight weeks from today.

13. The petition is allowed in above terms and the pending application also stands disposed of.

14. The original file which has been produced in Court has been perused and after perusal returned to the learned counsel for the respondent.

SANJEEV SACHDEVA, J

TUSHAR RAO GEDELA, J

NOVEMBER 18, 2022

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