

\$~21

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

%

Judgment delivered on: 12.10.2022

+ W.P.(C) 6256/2019 & CM APPL. 26790/2019

SOMBIR

..... Petitioner

Versus

STAFF SELECTION COMMISSION AND ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Anunaya Mehta and Mr. Vinayak Thakur, Advocates

For the Respondents: Mr. Naginder Benipal, Senior Panel Counsel for UOI with Mr. Anirudh Shukla, GP, Mr. Ankit Siwach, Ms. Harithi Kambiri, Ms. Arpita Rawat, Mr. Abhijeet Vikram Singh, and Ms. Kavita Singh, Advocates.

Mr. Sudhir Kushwaha, SI/ MIN CRPF, SSC.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 25.02.2019 whereby the Original Application (O.A.) filed by the Petitioner seeking annulment of order dated 07.03.2016 cancelling the candidature of the Petitioner and debarring him for a period of three years for the Commission's

examination, was dismissed by the Tribunal.

2. Petitioner had participated in the Examination held by Respondent No.1 for recruitment of staff to the post of Multi Tasking (Non-Technical) Staff in the year 2013. Petitioner qualified in the written examination and ranked 3rd in the Northern Region Category. Petitioner was thereafter called for documents verification, which was cleared by the Petitioner and consequently a list was published by the Respondents allocating the Department of Central Bureau of Investigation to the Petitioner. However, after release of the list of allotment, Petitioner was not called for joining and on the website, the status was shown as 'referred to expert agency for verification of handwriting/signatures, etc.'.

3. On 07.03.2016, impugned order was passed by the Respondents cancelling the candidature of the Petitioner and debarring him for a period of three years for the Commission's examination.

4. Subject order of the Respondents was challenged by the Petitioner by filing the subject Original Application before the Tribunal. By impugned order dated 25.02.2019, the Tribunal has dismissed the O.A. primarily on the ground that the handwriting and signatures of the Petitioner were sent to Central Forensic Science Laboratory (CFSL) for verification and the conclusion given by the CFSL is that some of the handwritings and signatures of the applicants are of different persons. Solely relying upon the report of the CFSL, Tribunal has upheld the order dated 07.03.2016 and dismissed the O.A.

5. The original record of the Petitioner, *inter alia*, his application form, the admit card, attendance sheet, specimen signatures as well as the report of CFSL have been produced in Court for perusal of the Court.

6. It is submitted by learned counsel for the Respondents, under instructions from Mr. Sudhir Kushwaha, SI/Min, CRPF, who is present in person, that the identity of the Petitioner was duly confirmed when the specimen signatures were taken.

7. Impugned order dated 07.03.2016 passed by Respondent No.1, *inter alia*, reads as under :-

“2. Whereas Shri Sombir provisionally called for Document Verification of the aforesaid examination and appeared on 01.01.2014.

3. Whereas the Commission, the Competent Authority in the matter, has made a conscious decision with a view to protecting the integrity of the selection process and to prevent candidates who are prima facie found to indulge in unfair means in such examination from entering into government service through such manipulative practices.

4. Whereas the Commission gets regular verification of signature, handwriting specimen etc. from forensic experts who have proven expertise in such verification and had undertaken such verification of signature, handwriting and thumb impressions in the case of written examination papers and document verification of the aforesaid examination.

5. Whereas report of the forensic expert has been received and reliable evidence has emerged during such verification that Shri Sombir had resorted to

malpractice/unfair means in the said papers.

6. Now, therefore, Shri Sombir, Roll No.2201537996, Rank No.SL/00003 is hereby informed that his candidature in the Multi Task (Non-Technical) Staff examination, 2013 is cancelled and is 'DEBARRED' for a period of three (3) years for the Commission's examinations, without prejudice to the rights of the Commission to initiate/seek criminal proceedings against you."

8. Perusal of order dated 07.03.2016 shows that the main reason for cancellation of the candidature is that Petitioner is alleged to have indulged in unfair means in the examination and has resorted to malpractices/unfair means in the said paper.

9. Perusal of the CFSL report shows that there were two sets of documents, which have been sent for examination. The questioned exhibits A1, A2 and A2/1 are specimen writings and signatures on the Admission Certificate of SSC, bearing Roll No.2201537996 and questioned exhibit A3 is enclosed signatures on the application for recruitment for the post of MTS 2013 of SSC.

10. The said questioned exhibits have been compared by CFSL with the standard exhibits i.e. enclosed writing and signatures on 5 pages dated 04.08.2014 purported to be written by the Petitioner.

11. It is an admitted position of the Respondent that at the time when specimen signatures / standard exhibits i.e. writing and signatures were obtained on 04.08.2014, the identity of the petitioner was verified and it is the petitioner who has given the sample

signatures and writing on 04.08.2014.

12. The standard exhibits have been compared by CFSL with two sets of documents, one being the application form submitted by the Petitioner at the time of applying for the post and second set of documents which are alleged to have been executed by the Petitioner at the time when the Petitioner appeared for the examination i.e. the Admission Certificate as well as attendance sheet. The result of examination of CFSL is as under :-

“RESULT OF EXAMINATION

The documents of this case have been carefully and thoroughly examined.

1. The person who wrote the enclosed signatures stamped and marked S1, S2, S2/1 to S2/20, S3, S4 and S5 did not write the enclosed signature similarly stamped and marked A3.

2. The writings and signatures in the enclosed portions stamped and marked A1, A2, A2/1 and S1, S2, S2/1 to S2/20, 83, 84 and 85 have been written by one and the same person..”

13. The opinion rendered by CFSL is that the person who wrote the standard exhibits did not write the enclosed signature stamped and marked A3, which is the application form. Further CFSL has opined that the writings and signatures in the enclosed portions A1, A2 and A2/1 have been written by one and the same person who has written the standard exhibits.

14. The opinion of CFSL thus at least confirms that Petitioner is the one who had appeared for the examination as his signatures and hand

writing on the Admission Certificate and attendance sheet of the date of examination tally with the specimen signatures and writing.

15. The impugned order dated 07.03.2016, which holds that the Petitioner has resorted to unfair means and resorted to malpractices / unfair means in the said papers is accordingly not supported by the CFSL report. The CFSL report confirms that the Petitioner is the one who had appeared for the examination.

16. The opinion rendered by CFSL 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 Admission Certificate, attendance sheet as also the standard exhibits, it *prima facie* appears that the same have been written by the same individual.

17. However, even if, the finding of CFSL were to be taken into account, at least what 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.

18. Even if, there is some dissimilarity in the application form and the standard exhibits, the same would not vitiate the examination for the reason that CFSL has confirmed that it is the Petitioner himself who had appeared in the examination. For that reason even though the CFSL report records that the application form and the standard

exhibits differ, 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.

19. The Tribunal has passed the impugned order dated 25.02.2019 solely on the basis of a submission made that CFSL's report is adverse to the Petitioner without noticing that the CFSL report also supports the case of the Petitioner and confirms that it is the Petitioner himself who had appeared in the examination.

20. Consequently, in view of the opinion rendered by the CFSL that the person who had appeared in the examination is the one who has given the standard specimen and further it being an admitted position that it is the Petitioner who has given the standard specimen, the part of the report adverse to the Petitioner, therefore, loses its significance.

21. Consequently, we are of the view that Respondents have erroneously held On 07.03.2016 that Petitioner has resorted to malpractice/unfair means and consequently erred in cancelling his candidature and debarring him from Commission's examination.

22. In view of the above, impugned order of the Respondents dated 07.03.2016 and order of the Tribunal dated 25.02.2019 are not sustainable and are accordingly set aside.

23. Consequently, the final result and allocation of Department, which was cancelled by the impugned order dated 07.03.2016 is restored and shall be given effect to by the Respondents with all consequential benefits including notional seniority. However, since the Petitioner has not worked, so applying the principle of 'no work,

no pay' Petitioner shall not be entitled to any arrears from the Respondents. The exercise be concluded within a period of eight weeks from today.

24. Petition is allowed in above terms. Pending application also stands disposed of.

25. The original record received from the Respondents has been returned after perusal.

SANJEEV SACHDEVA, J

TUSHAR RAO GEDELA, J

OCTOBER 12, 2022

yg