



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

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Date of decision: September 5, 2023

+ W.P.(C) 11762/2023, CM APPLs. 45937/2023, 45938/2023,
45939/2023 & 45940/2023

(42) UNION OF INDIA & ANR.

..... Petitioners

Through: Mr. Vijay Joshi and Mr. Shubham
Chaturvedi, Advs. with Ms. Pooja
Staff and Welfare Inspector.

versus

HARSH SINGH & ORS.

..... Respondents

Through: Mr. B.C. Nagar, Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 45939/2023 & 45940/2023 (for exemption)

Exemption allowed subject to all just exceptions.

Applications are disposed of.

CM APPL. 45937/2023 (for permission)

This is an application filed by the petitioners seeking permission to file additional documents.

For the reasons stated in the application, the same is allowed and the additional documents are taken on record.

Application is disposed of.



W.P.(C) 11762/2023, CM APPL. 45938/2023

1. The challenge in this writ petition is to an order dated March 1, 2023, passed by the Central Administrative Tribunal Principal Bench, New Delhi ('Tribunal', for short) in Original Application No.2129/2020 ('OA', for short) whereby the Tribunal has allowed the OA filed by the respondents herein.
2. The case of the respondents before the Tribunal was that at the relevant point of time they were holding Group-D posts in the Indian Railway. They had participated in the written test for selection to the post of clerk-cum-typist in the grade pay of ₹1900 against 16.2-3% quota meant for the persons working for promotion to the said post.
3. It was their case that having been found successful; their names were included in the list of selected candidates issued on December 06, 2017. However, a revised notice dated May 29, 2018, was issued whereby their names have been excluded. Aggrieved by the same, they had challenged the action of the petitioners in an earlier round of litigation by way of OA 2486/2018. The same was decided on August 13, 2019 with a direction to the petitioners to consider the representation of the respondents with respect to their grievance and decide the same by passing a reasoned and speaking order. The petitioners have rejected the claim of the respondents by adducing certain reasons vide order dated November 04, 2019.
4. The case of the respondents before the Tribunal was that the rejection is primarily on the ground that while writing the



written test, they had given a clue of their identity in the answer sheet by mentioning their designation and office address in their answer to question number 10, which is untenable. It was also their case that the answer to question number 10 do not indicate their name and designation. In that sense, their identity remains protected. They have also pleaded parity qua another candidate, who had similarly answered question number 10 but has been given promotion.

5. The case of the petitioners before the Tribunal was that on account of certain irregularities and discrepancies detected, the said examination was subjected to a Vigilance Inquiry and it is only after a detailed Vigilance Inquiry that the result notice was revised. It was their case that the respondents fall in the category of those candidates who had revealed their identity or given a clue of the same in the answer sheet. The Tribunal has allowed the OA by stating in paragraph 10 onwards as under:

“10. The only reason the candidature of the applicants has been rejected is that they have been held to guilty of revealing their identity. There was no specific complaint with respect to the conduct of the applicants. It was only after a general inquiry that the respondents deduced that the applicants had committed the irregularity of revealing their identity in contravention to the specific condition about the same, which had been brought to the notice of all the candidates. We have given careful consideration to the relevant document, that is, the answer to question No. 10 given by the applicants which is held by the respondents as evidence of revealing the identity and, thus, violating the terms and conditions set forth for



the examination. The question was to write a letter to your officer requesting for three days' leave to attend the marriage of your near relative. While attempting an answer to the said question, the applicants have written a letter to the Chief Office Superintendent (General), Personnel Department, Head Officer, Baroda House, New Delhi and the said letter which is the answer to the question has been signed as under Applicant (Signature) (Name) (Designation) (Personnel Department, Head Office, Baroda House).

11. The fact that this letter has been addressed by designation to a particular officer has been inferred as a clue given by the applicants about their identity. It is quite apparent that the applicants have neither mentioned their name nor given signature nor the designation. In our considered view it is a very far fetched general inference that merely addressing the letter to the Chief Personnel Superintendent of the Personnel Department would amount to a clue with respect to the identity of the applicants. We are inclined to consider that it may raise a certain doubt, but the benefit of such a doubt should also necessarily be accorded to the applicants. We do not find any justification for the action of the respondents and find it to be arbitrary and without any cogent and justifiable reasons. Moreover, we reiterate that there was no complaint qua the conduct of the applicants whatsoever.

12. Accordingly, the impugned revised result dated 29.05.2018, to the extent that it excludes the name of the applicants, is quashed and set aside. The orders dated 04.11.2019 and order dated 31.01.2020 are also accordingly quashed and set aside as these orders are cryptic and terse and do not substantiate the decision to neglect the candidature of the applicants. Accordingly, the applicants are since held to be entitled for appointment as Clerk cum Typist in pursuance to the written examination which they had



duly cleared for the said post. The applicants shall also be entitled to the consequential benefits with respect to fixation of their seniority with effect from the date other candidates who were successful in the said examination have been given appointment as Clerk cum Typist. The initial benefits in terms of fixation of pay of all shall be accorded to them on notional basis.

13. These directions shall be complied with forthwith certainly not later than a period of eight weeks from the date of receipt of a copy of this order.

14. The O.A. stands allowed against the background of these directions.”

6. Mr. Vijay Joshi, learned counsel for the petitioners would reiterate his submissions as were advanced by the petitioners before the Tribunal. According to him, as per the instructions issued to the candidate, who were appearing in the written test, they were not required to disclose their name or any other clue which will reveal their identity. A perusal of the impugned order would reveal that, the respondents while answering the question No.10, addressed a letter, which they were required to write to their officer, to Chief Office Superintendent (General), Personnel Department, Head Office, Baroda House, New Delhi in the following manner:



सेवा है ✓

मुख्य न्यायाधीश (साधारण)
कार्मिक शाखा प्रधान कार्यालय
बड़ोदा हाऊस
नई दिल्ली ✓

विषय :- साली की शादी में गोंय
जाने के लिए तीन दिन का अर्जित अवकाश
स्वीकृति करार देना ✓

असौदग

सविनय निवेदन इस प्रकार है कि
मेरे साली कि शादी अराखण्ड में दिनांक
17/11/17 को है। आपसे नम्र निवेदन है
कि मुझे दिनांक 16/11/17 से 18/11/17 तक
तीन दिन का अर्जित अवकाश व लाभ
दी दिनांक 15/11/17 को स्टेशन छोड़ने
की आज्ञा भी प्रदान करें आपसी
आति रूपा होगी।

धन्यवाद

प्रार्थी

(हस्ताक्षर)

(नाम)

(पद)

कार्मिक शाखा
प्रधान कार्यालय
बड़ोदा हाऊस



सं. 10

34-मुरोय कामेंक कारीकारी
कामेंक शारदा वडावा हाकरा
नई दिल्ली

दिनांक 18-11-23

विषय :- चर्चर भाई कि शादी में जाने के
उल्लेख आकस्मिक अवकाश हेतु
आवेदन पत्र।

भंडा/सह

उपरोक्त विषय के अंतर्गत मुझे अपने
चर्चर भाई कि शादी दिनांक 24-11-2017 को
प्राप्ति से ग्रीसमें मेरा उपस्थित होगा आतीआवश्यक
है अतः आपसे निवेदन है मुझे दिनांक 23-11-17
से 25-11-17 तक आकस्मिक अवकाश प्रदान
करे तथा सुधार स्टेशन होडने की अनुमति
प्रदान करे।

आभार

गोपी

क. ख. ग.
खलसी कारीकार
वडावा हाकरा
विभाग - ई।आ।ए



उत्तर के लिए धन्यवाद

सेवा में,

मुख्य कार्यालय अधिकारी
आई.आर.पी. ब्रम्हपूर
(मई दिल्ली)

दिनांक 16/10/2023

विषय :- पंचरै आई.सी. शादी में सम्मिलित होने के लिए छट्टी के संबंध में।

प्रति, सावित्र निवेदन इस प्रकार है कि मैं पंचरै आई.सी. की दिनांक 16/10/2023 को छुट्टी पर हूँ। जहाँ श्री.मान जी से निवेदन है कि उनकी पत्नी उर्वशी जी को 15 दिनों की छुट्टी देनी चाहिए। आपकी आतिशय होगी।

आपकी आज्ञाकारी आज्ञा

आपकी आज्ञाकारी आज्ञा

आपकी आज्ञाकारी आज्ञा

(MR. CH)

7. By writing the above letters, they have disclosed that they are working in Personnel department. Though the respondent Nos. 2 and 3 have not disclosed their names, but have disclosed their designation and also the fact they are employed in Baroda House. He concedes that the respondent No. 1 has neither disclosed the designation / department nor his name.

8. According to Mr. Joshi, the aforesaid is sufficient to disclose the identity of respondents, in violation of the instructions issued to the candidates, and as such their answer sheet could not have been evaluated. The answer sheet having been evaluated, it



was decided pursuant to Vigilance Inquiry that their candidature be cancelled.

9. On a specific query from the Court to Mr. Joshi, as to whether by disclosing their designation / department had any favour been shown / granted to the respondents, Mr. Joshi could not reply to the same. In other words, mere disclosure of designation has not resulted in any benefit accrued to the respondents, including getting more marks. Mr. Joshi fairly states that the Vigilance Inquiry has not looked the issue from this perspective.

10. We have been informed that the respondents have secured the following marks in the written test on their own merit:

<i>Candidate Name</i>	<i>Marks</i>
<i>Harsh Singh / respondent No.1</i>	<i>73</i>
<i>Arjun Kumar / respondent No.2</i>	<i>64½</i>
<i>Hemant Kumar / respondent No.3</i>	<i>68</i>

11. It may be stated here that the petitioners have not contested the answers written by the respondents. That is the answers written by the respondents would not entail the marks secured by them.

12. That apart, it is not the case of the petitioners herein that the respondents had access to any of the Authority, who was involved in conducting selection process / checking the paper.

13. If that be so, we are of the view that the Tribunal was justified in allowing the OA in the manner it did in paragraphs 10



onwards. We do not find any merit in the petition, the same is dismissed.

CM APPL. 45938/2023

Dismissed as infructuous.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

SEPTEMBER 05, 2023/aky