



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

% *Date of decision: September 25, 2023*

+ W.P.(C) 12104/2023, CM APPLs. 47529/2023 & 47530/2023
(38)

STAFF SELECTION COMMISSION ORS

..... Petitioners

Through: Mrs. Avnish Ahlawat, SC, GNCTD
(Services) with Mrs. Taniya Ahlawat,
Mr. Nitesh Kumar Singh,
Ms. Laavanya Kaushik,
Ms. Aliza Alam and
Mr. Mohnish Sehrawat, Advs.

versus

VIVEK KUMAR

..... Respondent

Through: Mr. Neeraj Yadav, Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 47530/2023 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 12104/2023

1. The challenge in this writ petitions is to an order dated July 7, 2023 passed by the Central Administrative Tribunal Principal Bench, New Delhi, ('Tribunal', for short) in the Original Application No.481/2023 whereby the Tribunal while deciding the interim prayer of the respondent has in paragraph 6 directed as under:



“6. Thus, we are of the view that the respondents are creating doubts in our judicial minds whether the applicants are granted fair opportunity or not as for them, it is a question of appointment and livelihood that comes under the Article 14 and 16 of the Constitution of India. Moreover, in the interest of justice, we hereby direct the Staff Selection Commission to constitute another High Power Committee, excluding the members earlier appointed by it, to re-examine the case of all the remaining candidates whose results are withheld and submit the status report within a period of eight weeks.”

2. Suffice to state, this Court has decided a batch of two petitions on September 12, 2023 being **W.P.(C) 11961/2023** titled as **Staff Selection Commission and Ors. v. Balkar Mor and Ors. & W.P.(C) 11975/2023**, titled as **Staff Selection Commission and Ors v. Ritik Chahal and Ors.**, wherein the following order has been passed:

“The challenge in these petitions is to an order dated July 7, 2023 passed by the Central Administrative Tribunal (‘Tribunal’, for short) in a batch of OAs. While considering the interim prayer made by the respondents herein, the Tribunal has in Para 6 directed as under:

“6. Thus, we are of the view that the respondents are creating doubts in our judicial minds whether the applicants are granted fair opportunity or not as for them, it is a question of appointment and livelihood that comes under the Article 14 and 16 of the Constitution of India. Moreover, in the interest of justice, we hereby direct the Staff Selection Commission to constitute another High Power Committee, excluding the members earlier appointed by it, to re-examine the case of all the remaining candidates whose results are withheld and submit the status report within a period of eight weeks.”

1. The submission of Mrs. Avnish Ahlawat, learned Standing Counsel for GNCTD (Services) is that the Tribunal could not have directed the constitution of a High Power Committee when FIR has been filed against the respondents



herein, investigation has been carried out and challans have been filed before the concerned Court. According to her, in effect, the Tribunal has created a parallel Committee for carrying out the investigation, which is impermissible. She submits, as FIR is pending consideration, appointments cannot be given to the respondents. She seeks the prayers as made in the writ petitions, by setting aside the order dated July 7, 2023.

2. On the other hand, learned counsel for the respondents, who appears on advance notice justify the order of the Tribunal by stating that even in the past, the Staff Selection Commission ('SSC', for short) through an in-house inquiry has cleared 135 candidates for appointment. So parity need to be given to the respondents.

3. We are unable to agree with the submission made by the learned counsel for the respondents inasmuch as the Committee of which reference has been made by the counsel for the respondents was constituted to look into 625 cases, out of which 135 cases / candidates have been cleared but the Committee observed to initiate criminal action against the rest. It is pursuant thereto that general FIR has been registered against 490 candidates and challans filed in the concerned Criminal Court which is seized of the issue. Under such circumstances, the Tribunal could not have directed constitution of a High Power Committee to look into the cases of the respondents, as that shall mean a parallel Committee has been constituted to carry out investigation / inquiry, which has already been carried out / done by the police. Moreover, the FIR has been registered on the asking of the Committee constituted by the SSC, so no further Committee could have been constituted.

4. Accordingly, we set aside the order dated July 7, 2023 passed by the Tribunal."

3. For parity of reasons, this writ petition is also disposed of setting aside the order dated July 7, 2023.

4. As the OA is still pending consideration before the Tribunal, the Tribunal shall decide the OA in accordance with law.



5. This order must not be construed as our expression on merit of the issue raised by the respondent in the Original Application.

6. We take on record the submission made by Mrs. Ahlawat that the report of the Committee constituted by the Staff Selection Commission shall be placed on the file of the Tribunal in the batch of OAs with a copy to the learned counsel for the respondent.

CM APPL. 47529/2023

Dismissed as infructuous.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

SEPTEMBER 25, 2023/aky