



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

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Date of decision: April 24, 2024

+ W.P.(C) 4817/2024

(6) DEEPAK SANGWAN Petitioner
Through: Mr. Sarvesh Kumar Yadav and
Mr. Ram Naresh Yadav, Advs.

versus

UNION OF INDIA & ORS. Respondents
Through:

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

V. KAMESWAR RAO, J. (ORAL)

1. This petition has been filed by the petitioner with the following prayers:

"It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:-

i. issue an appropriate writ, order or direction in the nature of Certiorari for quashing and setting aside the charge sheet dated 26.03.2020 passed by Ld. Summary Court (Annexure P-6 Colly) and quashing the finding and order of sentence dated 31.10.2020 passed by the Summary Court at Group Centre, CRPF Bilaspur presided by Commandant Group Centre, CRPF Bilaspur (Annexure P-13) and quashing the finding and order of sentence in appeal dated 15.03.2021 passed by DIG (Administration) CRPF, Raipur, Chattisgarh (Annexure P-14);



- ii. issue an appropriate writ, order or direction in the nature of mandamus for setting aside the nonspeaking which-is bad in law, non speaking and non reasoned orders and the findings reached are wholly without any supporting evidence or wholly against the evidence and the Summary Court has proceeded against the petitioner without following the procedures as laid down in the CRPF Act, 1949 ad CRPF Rules, 1955;*
- iii. issue an appropriate writ, order or direction in the nature of mandamus to direct the respondents for setting aside the sentence of dismissal with all consequential benefits etc.; and*
- iv. issue such other appropriate- writ, order or direction as may be considered fit and proper in the facts and circumstances of the case.*
- v. Further prayer for the record of the case may be called for in the interest of justice award the costs of this petition.”*

2. In substance, the petitioner has challenged the charge sheet dated March 26, 2020, order of sentence dated October 31, 2020 and order of sentence in appeal dated March 15, 2021 issued / passed on the basis of a departmental inquiry wherein it was alleged by the respondents that the petitioner, who had applied for recruitment to the post of Head Constable (Ministerial) had himself not appeared in the written examination held on October 23, 2016, instead somebody else had appeared in his place and wrote that examination.

3. It is the case of the petitioner and so contended by Mr. Sarvesh Kumar Yadav, learned counsel appearing for the petitioner that the aforesaid allegation made against the petitioner is based on the complaint given by one Sh. Baljit Singh on September 24, 2017. The



said complaint has resulted into two reports viz. CFPB (New Delhi) dated January 3, 2019 and CFSL (Bhopal) report dated October 14, 2019. Based on the reports, the Charge Memorandum dated March 26, 2020 was issued to the petitioner wherein the following charge was framed:

“That Force No. 176326323 Havildar / Ministerial Deepak Sangwan, (Roll No. 1010014024) Group Centre, CRPF Bharni Bilaspur (Chhattisgarh) has appeared in the Examination Center Group Center for the direct recruitment of the post of Havildar (Ministerial) conducted by CRPF during the year 2015-16 in the written examination dated 23.10.2016 in CRPF Gurgaon (Haryana), an unknown person had appeared in the examination instead of himself, the information of which was reported to the CRPF on the complaint of Mr. Baljit Singh, resident of MC Colony, Rohtak District Bhiwani (Haryana). It came to notice that this is a case of fraudulent recruitment to the force and falls under the category of a serious offense and other misconduct and serious misconduct/offence under section 11(1) of the Central Reserve Police Force Act 1949 and it is an offense punishable under Rule 27 of the Central Reserve Police Force Rules 1955.”

4. Pursuant to the issuance of the Charge Memorandum, a departmental inquiry by appointing an Inquiry Officer was conducted, who in his report has proved the charge against the petitioner. It may be stated here that on October 8, 2020, the Commandant Group Centre, CRPF Bilaspur sent a copy of the final report and the conclusion of the departmental inquiry to the petitioner for production of defence evidence. Whereas, on October 24, 2020, the petitioner also sent his reply and called for re-examination of his handwriting and thumb impression. Thereafter, the Commandant Group Centre, CRPF Bilaspur



on October 31, 2020 found the charge framed against the petitioner as rightly proved and dismissed the petitioner from the Force.

5. Primarily, it is the submission of Mr. Yadav that the respondents could not have only on the basis of CFPB and CFSL reports drawn a conclusion that the petitioner was impersonated resulting in his dismissal from the service. He submits that the petitioner had also appeared in the other stages of the selection process like the Physical Measurement Test, Typing Test and Medical Examination to contend that the petitioner was physically present in all the aforementioned stages of examination, the fact which can be confirmed from videography done by the respondents.

6. He also prays that re-examination be conducted so that the petitioner can appear in the same and in case he qualifies, he be reinstated.

7. Suffice to state, we are not impressed by such submissions made by Mr. Yadav for the simple reason that written examination is a crucial stage of selection process and it has been conclusively stated in the CFPB and CFSL reports that the thumb impression of the petitioner as well as his Hand Writing on the specimen do not match with the thumb impression and handwriting embossed on his written examination. So, it follows that it is not only on the basis of hand writing that the impugned action has been taken against the petitioner, but the conclusion arrived at by the respondents is also corroborated by the evidence of thumb impression mismatch. The relevant excerpts of the aforementioned reports are reproduced as under for ready reference:

CFSL Report



“Reasons for Opinion No. CFSL (BPL)/185/ DOC/128/ 2019/CX-72/2019 Dated: 14-10-2019 The Dy. Commandant, DIGP, GC, CRPF (Sh. Deepak Sangwan), Roll No. 1010014624) I have carefully and thoroughly examined the original documents of this case in all aspects of Handwriting identification and detection of forgery using various scientific (aids such as Hand magnifiers. Stereo-microscope etc. available in the Govt. of India. laboratory at Bhopal.

REFERENCE OPINION AS EMBODIED IN PARA 1: My opinion that "The enclosed writings stamped and marked S1 to S15 and 81/1, 815/1 did not write the enclosed writings similarly stamped and marked Q 1 & Q 1/1 ", is based upon the cumulative consideration of various divergences in both general and individual writing characteristics.

The specimen writings marked S1 to S15 and S1 /1 to S 15/1, on inter-se examination & comparison reveals that they were freely written, show uniform line quality with smooth strokes and natural variations as well as have inter consistency among themselves.

Differences are observed in the general writing habits in both questioned and specimen writings, such as- movement of formation of various letters and their combinations, slant, skill, speed, relative- spacing, relative size and proportion of characters, nature of commencing and terminating strokes, combination of various strokes etc. Differences are also observed in individual writings characteristics, some of them are nature of commencement formation of body oval part and finish of letter 'Va' as observed in the questioned writings was not observed in the specimen writings, manner of execution of letter 'Da', nature of curvature and commencement in execution of body part along with relative location of finishing stroke also found to be different in both sets of writings, movement of strokes in execution of body part with relative location of commencing and terminating stroke of letter 'Ba' is found



to be characteristically divergent in both sets of writings, formation of body eyelet, manner of linking with vertical staff in execution of letter 'Na', relative size and shape of formation of body part of letter 'Ana', nature and relative size of commencing stroke of letter 'Tha', formation of body part and direction of finish, manner of putting vowel sign 'Ookar' in execution of letter 'Pa' also found to be different in both questioned and specimen relative size and location of commencement of letter 'Bha' manner of putting letter 'Half Ra' in execution of letter 'Pra', nature and movement of strokes in execution of body part of letter, 'Ae', nature and movement of stroke in execution of commonly occurring letter such as 'Cha', 'Ja', 'Kha', 'Cha', 'Ta', 'Ga', 'Aa' etc. and vowel sign such as 'Ikar', 'Ukar', 'Aikar' etc. are also found to be characteristically different in both questioned and specimen. The collective consideration of above mentioned divergences in the general and individual writing habits between the questioned and specimen writings are significant and sufficient and are not due to natural variations or intended disguise but due to their different authorship. ”

OPINION

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

- 1. The person who wrote the enclosed writings stamped and marked S1 to S15 and S1/1 to S15/1 did not write the enclosed writings similarly stamped and marked Q1 & Q1/1 .*
- 2. It has not been possible to express any opinion regarding the authorship on the questioned writings and signatures marked Q2. Q3. Q3/1. Q3/2. Q4 and Q5 in comparison with the supplied specimen writings and signatures as all the writings characteristics could not be collectively accounted for from the supplied specimen writings and signatures. As per the principle of handwriting identification like is to be compared with like". Hence you are requested to procure few more specimen writings and signatures as occurring in the aforesaid*



questioned writings and signatures i.e. both English and Hindi writings.

Efforts are also to be made to procure admittedly genuine writings and signatures of contemporary period of the concerned person as occurring in the questioned documents which may be available on some existing documents such as application, day to day official work, cheques, withdrawal form, personal diaries etc.

CFPB Report

“REPORT

I. RECEIPT

Received a letter No A Chh,-2/18-Local-3 in a sealed envelope by hand from 3 special representative of Group Centre, Bilaspur sent by DIGP, GC, CRPF, Bilaspur, Chhattisgarh- 495112 along with the following documents for fingerprint examination & furnishing expert opinion thereon w.r.t. already recruited candidate Shri Deepak Sangwan (Roll No 1010014624).

II. ENCLOSURES

1. Original OMR Answer Sheet of the candidate bearing purported L TI of the candidate, which is a questioned & disputed print.
2. 5 copies of specimen finger impressions of the above candidate on prescribed 10 digit fingerprint slips

III. QUESTIONNAIRE

Whether the questioned print as appearing on OMR sheet and mentioned above in enclosure 1 is identical with any of the specimen finger impressions of Shri Deepak Sangwan (Roll No. 1010014624) as mentioned in enclosure 2?

IV. PROCESS OF EXAMINATION

For the purpose of examination, Questioned and Specimen finger Impressions are encircled, initialed and marked with red ink at C.F.P.B. / N.C.R.B. New Delhi as below:-

1. Questioned finger Impression of Shri Deepak Sangwan (Roll No. 1010014624) on Original OMR Answer Sheet as described above in enclosure 1 has been marked as Q-1.



2. In specimen sheet of Shri Deepak Sangwan (Roll No. 1010014624) bearing left and right thumb impressions in front of competent authorities, best Left and Right thumb impressions selected and have been marked as S-1 and S-2 respectively for the purpose of comparison in enclosure 2.

V. RESULT OF EXAMINATION

Questioned finger Impression marked as Q-1 as described above in enclosure 1 is **DIFFERENT** from specimen left and Right thumb impression marked as S-1 and S-2.”

8. Hence, the corroborative evidence to the effect that even the handwriting of the petitioner did not match, would on the basis of preponderance of probability, conclusively prove against the petitioner that he did not appear in the written examination and *in lieu* of him some third person had appeared.

9. Insofar as the submission of Mr. Yadav that as the petitioner had appeared in the other stages of the examination would prove that the petitioner himself had appeared in the whole selection process resulting in his selection is not appealing, when at least, it has been proved from the two reports that at the stage of written examination, instead of the petitioner, someone else/ third person had appeared and wrote the examination on his behalf, which in itself, is a serious misconduct. Hence, the necessary consequence which followed, i.e., the dismissal of the petitioner from the service of the respondents, is justified in the given facts and circumstances.

10. The plea of Mr. Yadav that a fresh written examination be conducted is also not appealing for the reason that for a candidate who managed to secure the appointment through illegal means, should not be allowed to reappear on the basis of equity as it is a settled law that



one who seeks equity, must do equity, i.e., one who comes into equity must come with clean hands.

11. Insofar as the reliance placed by Mr. Yadav on the judgment of the Allahabad High Court in the case of ***Ran Vijay Singh and Ors. v. Union of India and Ors., MANU/UP/2584/2018***, is concerned, the perusal of the same, would reveal, that the respondents therein, i.e., CRPF had not placed on record before the High Court of Allahabad (concerned Court) the opinion of the Laboratory disputing the specimen thumb impression and the admitted thumb impression of the petitioners therein. The only material which was placed on record by the respondents was that the opinion of CFSL regarding handwriting and signatures of the petitioners being different in the written answer sheets / admit card and the specimen signatures and handwriting. As such, unlike the present case, there was no material qua the thumb impression of the petitioners was placed on record to substantiate the plea of impersonation by the respondents. It is an admitted position in this case that the thumb impression of the petitioner as embossed on the answer sheet does not match with the thumb impression of the specimen which was given by the petitioner himself to the respondents. Therefore, it cannot be disputed that instead of the petitioner somebody else had appeared in the written examination unlike the case before the High Court of Allahabad wherein there was no proof qua the thumb impressions of the petitioners to hold that they had not appeared in the concerned examination. Hence, the said judgment shall not help the case of the petitioner, more so, in view of the CFPB report that even the thumb impression of the petitioner has mismatched.



12. Mr. Yadav has also relied upon the judgment of the Supreme Court in the case of ***Rajeev Suri v. DDA, 11 SCC 2022 and Ors., Transferred Case (Civil) No. 229 of 2020***, dated January 05, 2021, wherein the Supreme Court has held that the requirement of due application of mind is one of the shades of jurisprudential doctrine that justice should not only be done but seen to be done. It requires a decision making body, judicial or quasi judicial, to abide by certain basic tenets of natural justice, including but not limited to the grant of hearing to the affected person. Suffice to state, that there is no doubt to the aforesaid proposition that the goal of principles of natural justice is to prevent prejudice, however, in the present case, it cannot be said that the principles of natural justice have not been followed by the respondents more so, when the petitioner has been given ample opportunity to defend himself during departmental enquiry.

13. Reliance is also placed by Mr. Yadav on the judgment of the Supreme Court in the case of ***Justice K.S. Puttaswamy (Retd.) and Another v. Union of India and Others, Writ Petition (Civil) No. 494 of 2012***, dated September 26, 2018 to contend that it has been held by the Supreme Court that a person's biometrics changes over time. For persons, who are engaged in manual labour, and persons who are disabled or aged, finger prints actually cannot be captured by biometric devices. There is no doubt, that for persons who are engaged in manual labour or disabled or aged, their finger prints cannot be captured by biometric devices. However, in the present case, it cannot be disputed that when the finger impression of the petitioner was taken at the time of the written examination as well as at the time when specimen of his



thumb impression was taken for CFPB, the petitioner was neither disabled nor aged as nothing has been placed on record to show that the petitioner because of his labour related work, his age or disability, his finger impression was not taken properly by the respondents and as such the same should not have been relied upon by the respondents. Therefore, the said judgment shall also not help the case of the petitioner.

14. Suffice to state, it is also the plea of Mr. Yadav that the identity of the complainant namely Sh. Baljit Singh is fake and as such the complaint made by him could not have been relied upon by the respondents. We are not in agreement with this plea of Mr. Yadav for the reason that even if it is assumed that the complaint filed is anonymous, at the same time, the conclusion arrived at by the disciplinary authority qua the impersonation of the petitioner on the basis of the two reports, i.e., CFPB & CFSL, for the reason already stated above, cannot be disputed. Hence, this plea of Mr. Yadav is also liable to be rejected.

15. It has also been pleaded by Mr. Yadav that the respondents having satisfied themselves that the petitioner himself was the candidate from the photograph on the admit card and allowing him to write the examination, hence, the conclusion drawn by the CFSL and CFPB reports that the thumb impression and the handwriting on the answer sheet do not match is totally erroneous. It may be stated here that it could have happened that possibly, the Invigilator might not have compared the photograph on the admit card with the face of the person who had actually came to write the examination, otherwise, it would not



have been possible for CFPB and CFSL to arrive at a different conclusion. If that be so, as held above, on preponderance of probability, it must be held that the person, who came to write the examination, was not the petitioner but some other person.

16. Mr. Yadav has also submitted that as the thumb impression and the hand writing on specimen have been taken after a gap of three years from the date of the conduct of the examination and hence could not have been relied upon, is not appealing as the impression on the fingers does not vary or change with the passage of time. Moreover, as far as his submission to the effect that a handwriting sample taken after a gap of three years can result into mismatching is concerned, it has been conclusively opined in the report of the CFSL as reproduced in paragraph 7 above that the person (petitioner) who wrote the enclosed writings i.e., stamped and marked S1 to S15 and S1/1 to S15/1 did not write the enclosed writings similarly stamped and marked Q1 & Q1/1. Also, the fact that there being a difference in the thumb impression on the answer sheet and the actual thumb impression of the petitioner on the specimen, justifies the decision of the respondents. Hence, this plea of Mr. Yadav is also liable to be rejected as not sustainable.

17. We are of the view that for the reasons stated above, there is no merit in the petition and the same is dismissed. No Costs.

V. KAMESWAR RAO, J

RAJNISH BHATNAGAR, J

APRIL 24, 2024/aky