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

% **Decision delivered on: 29.08.2024**

+ **W.P.(C) 11926/2024**

UNION OF INDIA & ORS.

.....Petitioners

Through: Mr. Rakesh Kumar, CGSC with
Mr. Sunil, Advocate.

versus

SH. PAWAN KUMAR

.....Respondent

Through: Mr. Brijender Chahar, Senior
Advocate with Mr. Karan Chahar,
Advocate.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE GIRISH KATHPALIA

J U D G M E N T (O R A L)

CAV 420/2024

1. In view of appearance of respondent in the present petition, present Caveat CAV 420/2024 stands discharged.

CM APPL. 49606/2024 (exemption)

2. Exemption allowed, subject to all just exceptions.

3. Applications stands disposed of.

W.P.(C) 11926/2024 & CM APPL. 49607/2024

4. By way of the present writ petition filed under Article 226 of the Constitution of India, the petitioners have sought the following relief:

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“a) Issue appropriate writ or direction setting aside the impugned order dated 21.05.2024 passed by the Hon'ble Central Administrative Tribunal Principal Bench, New Delhi in O.A No. 2240/2022.”

5. Though the present petition has been filed on various grounds, however, learned counsel for the petitioner has confined his submissions to the following grounds only:

“H. Because the CFSL report of the Respondent Shri Pawan Kumar was found negative. Further, there are major discrepancies noticed by the department. The CFSL report states that the specimen signature of Shri Pawan Kumar provided for examination SI to S35 are different from the signatures made on Application and OMR sheet. It is further submitted that as per the CFSL report, the signatures made on both the documents SI to S35 and Q1 and Q2 are made by different persons. It is submitted that the relevant paragraph has been produced below:

“The person who wrote the enclosed signatures stamped and marked SI to S35 did not write the enclosed signatures similarly stamped and marked Q1 and Q2”

I. Because on the basis of result of CFSL report, it has come to the notice that there is a vast difference in the specimen signature of the candidate with their respective signatures on Application and OMR sheets. The mismatch of signatures on various documents has established impersonation.

J. Because before the appointment was provided to the Respondent, the Respondent has submitted his self-declaration declaring that if a negative report is received from CFSL in respect of his signatures, his appointment in the Department of Posts in respect of Postman/Mail Guard examination held on 26.06.2016 would be terminated forthwith without any notice by the Department of Post and that he would not have any claim whatsoever in future in respect of the appointment in postal department related to the Postman/Mail Guard recruitment exercise of the year 2016. Therefore, after the negative report was received from the CFSL, the Respondent was precluded from



challenging the action of termination of his services by the department.

K. Because the Ld. Tribunal has not considered the self declaration submitted by the Respondent acknowledging that if a negative report is received from CFSL in respect of his signatures, his appointment would be terminated forthwith without any notice by the Department of Post. Therefore, after receiving the negative report, the department terminated the service of the Respondent vide order dated 11.02.2021 and no notice was required to be served upon the Respondent prior thereto."

6. The petitioners vide their notification dated 09.04.2016 invited applications for the post of Postman/Mail Guard in MP Postal Circle in Grade Pay of Rs.2000/-. The respondent participated in the said selection process. The result of the said notification was declared on 21.09.2016 on the website of the petitioners. However, the declared result was kept on hold on account of certain alleged irregularity noticed by the petitioners. Accordingly, the matter was investigated by STF Bhopal. Certain persons approached the Tribunal agitating their grievances and their two OAs were disposed of vide common order dated 04.10.2018 and the petitioners therein were directed to get the investigation being conducted by the STF completed within a period of one year from 28.12.2017. The said order of the Tribunal was challenged before the High Court of Madhya Pradesh and the same was disposed of by directing the petitioners to complete the process of appointment within a period of three months. Accordingly, the petitioners proceeded with the appointment of the selected candidates.



7. The respondent was appointed to the post of Postman and allotted Guna postal Division and offer of appointment dated 18.04.2019 was issued to him. Vide the said offer of appointment, the respondent was specifically informed that his appointment will be purely on temporary basis and the same shall be liable to be terminated at any time without assigning any reason. It was also provided in the offer of appointment that signature of the respondent obtained in circle office of the petitioners at Bhopal shall be sent to Central Forensic Science Laboratory (CFSL) for comparing/verifying with the signatures on application form submitted by the respondent at the time of application/OMR sheet and if a negative report is received from CFSL in respect of his signature, the provisional appointment would be terminated without any notice.

8. Accordingly, the respondent in the prescribed format had given undertaking in this regard and was allowed to join the post under reference. The original document of the respondent i.e., signature on admit card, OMR sheet and his sample signatures given before the Committee at multiple places were sent by the petitioners to CFSL for their expert opinion on the genuineness of the signatures of the respondent.

9. In view of the report of the CFSL, the petitioners issued the termination order dated 11.02.2021 and the respondent stood terminated vide the said order and same was challenged by the respondent before the learned Tribunal.



10. The case of the respondent before the learned Tribunal was that identical issue came for adjudication before the Tribunal in various OAs including OA No. 2241/2022, OA No. 2226/2022 and OA No. 2222/2022 and the learned Tribunal, Principle Bench, New Delhi, vide a common order dated 20.03.2023 had partly allowed those three OAs under reference, keeping in view various previous orders of the Tribunal including one dated 30.05.2022 in OA NO. 2440/2021 titled ***Sh. Sumit Surajmal vs. Union of India & Ors.*** and also taking into consideration the various objections raised on behalf of the petitioners.

11. The learned counsel appearing on behalf of respondent submitted before the Tribunal that the OA in which the order is impugned before this court is identical to the applicants in OA NO. 2241/2022 and two other OAs referred to hereinabove. He submitted that the petitioners in that OA were respondents in the said three OAs decided vide common order dated 20.03.2023 and the said common order has attained finality inasmuch as in compliance of the directions of the Tribunal, the applicants therein have been reinstated in service by the petitioners vide their respective order dated 30.08.2023 and 31.08.2023. The learned counsel also placed on record the copies of such orders dated after supplying a copy thereof to the learned counsel for the petitioners herein.

12. Counsel appearing on behalf of petitioners herein before the learned Tribunal though opposed the claim of the respondent, however, they did not dispute the fact that applicants in the captioned OAs are



identical to the applicants in the aforesaid three OAs under reference, decided vide common order dated 20.03.2023 and claim of the respondent therein is also similar and same to that in the OAs decided vide common order dated 20.03.2023 under reference.

13. Though counsel for the petitioners herein stated before the learned Tribunal and before this court that the petitioners have terminated the services of the applicants keeping in view the undertaking given by them at the time of issuance of offer of appointment letter to them and also the expert opinion received from the CFSL, however, they do not dispute that the same was the situation even in the case of the applicants in the three OAs mentioned above which was partly allowed vide order dated 20.03.2023.

14. The counsel for the petitioner before the learned Tribunal submitted that Jabalpur Bench of the Tribunal passed a common order dated 25.07.2023 in OA No. 104/2021 and 143/2021 and order dated 27.07.2023 in OA No. 272/2021 which have been challenged by the petitioners before High Court of Madhya Pradesh in MP No. 272/2024, MP No.221/2024 and MP No.208/2024 respectively. However, he did not dispute that even the order of Jabalpur Bench of the Tribunal has neither been stayed nor the same has been set aside by the High Court.

15. Even on specific query, the petitioners did not dispute that the common order dated 20.03.2023 as mentioned above has attained finality inasmuch as the directions of the learned Tribunal have been complied



with by reinstating the applicants in the said OAs.

16. In view of the above, the learned Tribunal partly allowed the OAs filed by the respondent and given liberty to the petitioners herein to proceed against the said respondent, if they so decide in accordance with relevant rules and instructions.

17. It is not in dispute that on receipt of the said FSL report, neither the respondent was apprised about the said FSL report nor any show cause notice was given to him mentioning what was against the respondent in the said FSL report. Without doing that exercise, the petitioners straightway terminated the service of the respondent which is against the settled principles of service jurisprudence.

18. In view the above discussion, we find no error or perversity in the order of the learned Tribunal.

19. Finding no merit in the present petition, the same is dismissed. Consequently, the pending application also stands disposed of.

(SURESH KUMAR KAIT)
JUDGE

(GIRISH KATHPALIA)
JUDGE

AUGUST 29, 2024/ry