



2024:DHC:9929-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 17328/2024 and CAV 614/2024, CM APPLs. 73776-77/2024

UNION OF INDIA & ORS.Petitioners
Through: Ms. Arunima Dwivedi, CGSC
with Ms. Pinky Pawar, Advocate

versus

JAGMOHANRespondent
Through: Mr. Ankur Chhibber, Mr.
Ashish Pandey, Mr. Mukesh Kumar and Mr.
Anurag Pandey, Advocates

+ W.P.(C) 17365/2024 and CAV 616/2024, CM APPLs. 73921-22/2024

UNION OF INDIA & ORS.Petitioners
Through: Ms. Arunima Dwivedi, CGSC
with Ms. Pinky Pawar, Advocate for UOI
Mrs. Avnish Ahlawat, Standing Counsel
with Mr. Nitesh Kumar Singh, Ms.
Laavanya Kaushik, Ms. Aliza Alam and Mr.
Mohnish Sehrawat, Advocates

versus

SHRI SUKHVINDERRespondent
Through: Mr. Ankur Chhibber, Mr.
Ashish Pandey and Mr. Mukesh Kumar,
Advocates

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

JUDGMENT (ORAL)

17.12.2024

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C. HARI SHANKAR, J.

1. Invitations, for applications from candidates seeking to be directly recruited as Postal Assistant in the office of the petitioner, were invited by a public notice dated 21 February 2014. The respondents in these writ petitions applied, and were selected. They joined their respective posts and started working. Thereafter, the examination was itself cancelled by the petitioners with immediate effect. This decision was challenged, and the challenge travelled to the Supreme Court. The Supreme Court, by the following order dated 13 July 2017, disposed of the Civil Appeals¹:

“Permission to file SLP granted. Delay condoned.

We have heard learned counsel for the appellants/petitioners and we have also heard learned Additional Solicitor General who has been instructed by officers of the concerned Department.

We have also perused the report of the Vigilance Committee set up by the Department.

We find from a perusal of the report of the Vigilance Committee that the entire examination was not necessarily vitiated but some persons who are suspected of having used malpractices in the examination of Postal Assistant/Sorting Assistant in five circles, viz., Uttarakhand, Rajasthan, Chhattisgarh, Haryana and Gujarat have actually been identified. The respondents will proceed against them in accordance with law but since they are quite a few in number, a formal show cause notice is dispensed with. However, they may be personally called and explained the allegations against them and given some reasonable time of about a week or ten days to give their reply to the allegations and then a final decision may be taken.

Those persons who are not suspected of having committed any malpractices and who have undergone the prescribed courses may be reinstated with all 3 consequential benefits and 50% back wages with liberty to the respondents to take action against them in case



subsequently it is found in the investigation that they have indulged in some malpractices.

We make it clear that the respondents are at liberty to take action against those persons who have violated the terms of the examination such as having appeared in more than one centre. Such violations will also be treated as malpractice.

We further make it clear that this order will not enure to the benefit of those persons who have not been given appointment letters. However, we also make it clear that those candidates who have not completed the course but were in the process of completing the course until the impugned action was taken may be permitted to complete the course/training provided they are not suspected of any malpractice.

The appeals and special leave petitions stand disposed of. Pending applications are also disposed of.”

2. In compliance with the aforesaid order of the Supreme Court, Jagmohan was appointed on 30 July 2018 and Sukhvinder was appointed on 28 June 2018. The appointments were provisional, subject to the right of the petitioners to take action against them in the event of there having been found to have indulged in malpractice during the examination. In the meanwhile, the signatures of the candidates who had undertaken the examination was sent to the Central Forensic Science Laboratory² for verification and ascertain whether any impersonation had taken place. The examination report was submitted by the CFSL, in the case of Jagmohan, on 31 May 2019 and, in the case of Sukhvinder, on 28 June 2019. The reports were adverse to the respondents. The CFSL opined that the signatures on the Typing Test Evaluation Sheet and Data Entry Evaluation Sheet, of the respondents, did not tally with the specimen signatures. Following this, chargesheets were issued to Jagmohan on 6 February 2020 and

² "CFSL" hereinafter



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Sukhvinder on 19 March 2020, under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965³, proposing to initiate disciplinary action against them. Inquiry Officer⁴ and Presenting Officer were appointed, to conduct the disciplinary inquiry. The IO opined, in his Inquiry Report, that the charge against the respondents stood proved beyond doubt. The Disciplinary Authority⁵, *vide* order dated 6 September 2022 in the case of Jagmohan and 8 February 2022 in the case of Sukhvinder, agreed with the findings of the IO and imposed, on them, the penalty of removal from service with immediate effect, which would not be a disqualification for future employment. Appeals, preferred by the respondents against the decision of the DA, were dismissed by the appellate authority on 14 February 2023 in the case of Jagmohan and 29 September 2023 in the case of Sukhvinder. OA 20/2023 and 275/2024 were filed by Jagmohan and Sukhvinder, before the Central Administrative Tribunal⁶, assailing the decisions of the DA and the appellate authority. The Tribunal, by a common judgment dated 20 May 2024, allowed both the Original Applications.

3. Aggrieved thereby, the Union of India, as the respondent before the Tribunal, has petitioned this Court under Article 226 of the Constitution of India.

4. We have heard Ms. Arunima Dwivedi and Mr. Ankur Chhibber, who appear for the petitioners and respondents respectively, at length.

³ "the CCS (CCA) Rules"

⁴ "IO" hereinafter

⁵ "DA" hereinafter

⁶ "the Tribunal" hereinafter



5. The Tribunal has, by the judgment under challenge, quashed the order of dismissal of the respondents from service, as well as the orders passed in the appeals thereagainst, and has directed their reinstatement with consequential benefits.

6. Before the Tribunal, the petitioners sought to contend that, as the inquiry had been conducted pursuant to the liberty granted by the Supreme Court, the respondents were bound by its outcome. It was submitted that principles of natural justice have been complied with, and no legitimate grievance could be raised on that count.

7. As against this, the respondents contended that a finding of impersonation, and consequential cancellation of examination, could not be returned merely on the basis of a handwriting comparison conducted by the CFSL. It was pointed out that there was no other evidence available with the petitioners.

8. It also merits mention that documents, sought by the respondents to defend the allegations against them, and of which the IO directed supply, holding that they were relevant, were never supplied to them.

9. Joginder had sought 11 documents from the petitioners, to defend the allegations against him. The request was considered by the IO on 8 October 2020, and it was ordered thus:

“2. The Charged official demanded eleven documents in the list of additional documents to defend his case. Eight (Sr No. 1, 2, 3, 4, 5, 6, 7 and 11) out of a found to be relevant. To decide the relevancy of remaining documents, the charged official was passed to explain the relevancy of documents mentioned that sr no. 8, 9



and 10 in the list.

The charged official explained that exam was conducted PTC Vadodara during the induction training on the same pattern, so documents mentioned at Sr. No. 8 & 9. He explained that the documents sr. no. 10 is required to ascertain the authenticity of the document.

During the, it was explained by the Inquiry Officer that the performance of the exam conducted at PTC Vadodara during the induction training is not relevant with this case. Therefore, the documents mentioned at sr. no. 8 & 9 are not relevant. The authenticity of documents sr. no. 10 will be decided during the regular of the case, so that the demanded document is not required.

Action will be initiated for making available the relevant documents.”

Joginder was not, however, provided with any of the documents at S. No. 1, 2, 3, 4, 5, 6, 7 or 11, despite the IO returning a finding that the documents were relevant for Joginder’s defence and directing action be initiated for making them available. During the course of arguments before the IO, this point was specifically raised by Joginder, and stands so recorded in the Inquiry Report. The IO has, however, paid no heed to the said submission, while holding the charges against Joginder to be proved.

10. With respect to the request for documents by Sukhvinder, for his defence, the inquiry Report dated 21 December 2021, of the IO, records thus:

“Accordingly CO has supplied list dated 07.09.2020 of documents and witnesses to be produced during inquiry for his defence. The list was carefully scrutinised by the IO and relevant documents and witnesses were allowed. The letter to supply the same was addressed by letter dated 21.09.2020. The custody of the said documents were reported to be ‘SP Gondal/CPMG Ahmedabad/DOP’ by the CO. The letter was addressed to PO but a copy of the same was also addressed to the authority having



custody of the same as mentioned by CO in his demand letter i.e. SP Gondal. Custodian of the documents i.e. SP Gondal has also intimated vide letter dated 01.12.2020 that these (defence) documents were called from CO Ahmedabad and will be supplied after receipt of the same. Custodian of the documents i.e. SP Gondal has been sent non-availability letter vide B2/Rule-14/01/Sukhvinder/2020 dated 22.01.2021 as per CO Ahmedabad letter No. R & E/1-1/DR/2013 & 2014-III dated 05.10.2020 additional documents demanded by CO was not available of the said information which was sent to Charge on 28.01.2021 by IO.”

11. The Tribunal, in the impugned judgment, has followed the earlier decision of the Chandigarh Bench of the Tribunal in *Sandeep Kohar v UOI*⁷ which, in turn, relied on the decision of the Ahmedabad Bench of the Tribunal, rendered on 4 May 2023 in *Ashish Kumar M. Patel v UOI*⁸. The Chandigarh Bench of the Tribunal, in deciding to quash the cancellation of the candidates’ candidature, held that, on the sole ground of mismatch between the signatures of the candidate in the documents relating to the examination and her, or his, specimen signatures, cancellation of the candidate’s candidature was not justified. Following the said decision, the Tribunal has, in the impugned judgement, quashed the termination/dismissal of services of Jagmohan and Sukhvinder and has directed their reinstatement.

12. Aggrieved that the said decision, the Union of India, through the Department of Posts, has petitioned this Court under Article 226 of the Constitution of India.

13. Learned Counsel broadly reiterated their respective contentions before the Tribunal. It has also been pointed out to us, however, that

⁷ MANU/CA/0483/2024
⁸ OA 127/2022



the judgment of the Ahmedabad bench of the Tribunal in **Ashish Kumar M. Patel** stands upheld by a Division Bench of the High Court of Gujarat in **UOI v Anil Kumar**⁹.

14. The factual and legal position which obtained in the case of the respondents before the High Court of Gujarat in **Anil Kumar** are identical to those which obtained in the case of the present respondents, inasmuch as the respondents in **Anil Kumar** were also among those who participated in the examination conducted for the posts of Postal Assistant and Sorting Assistant pursuant to the advertisement dated 21 February 2014 and who, after initially having been appointed, were terminated by cancellation of their appointment, based on the report of the CFSL. In their case, too, fresh appointment orders were issued, an inquiry conducted, pursuant to the directions of the Supreme Court in its order dated 13 July 2017 in Civil Appeal 10513/2016 and connected cases. In their case, too, documents, which were sought by the respondents for their defence were permitted by the IO but not provided. Among other reasons, the High Court of Gujarat, in its judgement in **Anil Kumar**, has affirmed the decision of the Ahmedabad Bench of the Tribunal to set aside the termination of the respondents (before the High Court) from service and directed reinstatement, on the ground that there was clear violation of the principles of natural justice in not providing the documents sought by the respondents, especially as the only evidence against them was the CFSL report.

15. The respondents would, therefore, in any case be entitled to



relief, to maintain parity with their compatriot-respondents before the High Court of Gujarat in *Anil Kumar*.

16. The default, on the petitioner's part, in supplying the documents sought by the respondents Jagmohan and Sukhvinder, and allowed by the IO has relevant for the defence is, in our opinion, fatal to the inquiry proceedings. It signals complete breach of the principles of natural justice and fair play. It is elementary that, in any quasi-judicial proceedings, the person charged is entitled to be provided material relevant for his defence. The finding of the IO that the documents were relevant ipso facto render their non-supply to the respondents fatal to the inquiry. In fact, no reasonable purpose would be served even in permitting the petitioners to recommence the inquiry against the respondents, if the documents are essential for the defence are not forthcoming. In this context, we find it difficult to believe that the documents are not available, as the inquiry was conducted in reasonable proximity to the order passed by the Supreme Court.

17. It is, further, well settled in evidence that handwriting comparison constitutes evidence of an extremely weak character, and cannot, in any event, be treated as conclusive. We may reproduce, in this context, the following passages from the judgements of the Supreme Court in *S.P.S. Rathore v CBI*¹⁰ and *Padum Kumar v State of UP*¹¹:

From *S.P.S. Rathore*:

47. With regard to the contention of the learned Senior Counsel

¹⁰ (2017) 5 SCC 817

¹¹ (2020) 3 SCC 35



for the appellant-accused that the signatures of Ms Ruchika on the memorandum were forged though she signed the same in front of Shri Anand Prakash, Shri S.C. Girhotra, Ms Aradhana and Mrs Madhu Prakash and they have admitted the same, we are of the opinion that *expert evidence as to handwriting is only opinion evidence and it can never be conclusive*. Acting on the evidence of any expert, it is usually to see if that evidence is corroborated either by clear, direct or circumstantial evidence. *The sole evidence of a handwriting expert is not normally sufficient for recording a definite finding about the writing being of a certain person or not.* A court is competent to compare the disputed writing of a person with others which are admitted or proved to be his writings. It may not be safe for a court to record a finding about a person's writing in a certain document merely on the basis of expert comparison, but a court can itself compare the writings in order to appreciate properly the other evidence produced before it in that regard. The opinion of a handwriting expert is also relevant in view of Section 45 of the Evidence Act, but that too is not conclusive. It has also been held by this Court in a catena of cases that the sole evidence of a handwriting expert is not normally sufficient for recording a definite finding about the writing being of a certain person or not. It follows that it is not essential that the handwriting expert must be examined in a case to prove or disprove the disputed writing. *It is opinion evidence and it can rarely, if ever, take the place of substantive evidence. Before acting on such evidence, it is usual to see if it is corroborated either by clear, direct evidence or by circumstantial evidence.*

49. In **Bhagwan Kaur v. Maharaj Krishan Sharma**¹² this Court held as under :

“26. ... It is no doubt true that the prosecution led evidence of handwriting expert to show the similarity of handwriting between (PW 1/A) and other admitted writings of the deceased, but in this respect, we are of the opinion that in view of the main essential features of the case, not much value can be attached to the expert evidence. *The evidence of a handwriting expert, unlike that of a fingerprint expert, is generally of a frail character and its fallibilities have been quite often noticed. The courts should, therefore, be wary to give too much weight to the evidence of handwriting expert.* In **Kishore Chandra Singh Deo v. Babu Ganesh Prasad Bhagat**¹³ this Court observed that *conclusions based upon mere comparison of handwriting must at best be indecisive and yield to the*

¹² (1973) 4 SCC 46

¹³ (1954) 1 SCC 326



positive evidence in the case.”

50. It is thus clear that uncorroborated evidence of a handwriting expert is an extremely weak type of evidence and the same should not be relied upon either for the conviction or for acquittal. The courts, should, therefore, be wary to give too much weight to the evidence of handwriting expert. It can rarely, if ever, take the place of substantive evidence. Before acting on such evidence, it is usual to see if it is corroborated either by clear, direct evidence or by circumstantial evidence.”

(Emphasis supplied)

From **Padum Kumar**

“14. The learned counsel for the appellant has submitted that without independent and reliable corroboration, the opinion of the handwriting experts cannot be relied upon to base the conviction. In support of his contention, the learned counsel for the appellant has placed reliance upon **S. Gopal Reddy v State of A.P.**¹⁴, wherein the Supreme Court held as under:

“28. Thus, the evidence of PW 3 is not definite and cannot be said to be of a clinching nature to connect the appellant with the disputed letters. *The evidence of an expert is a rather weak type of evidence and the courts do not generally consider it as offering “conclusive” proof and therefore safe to rely upon the same without seeking independent and reliable corroboration.* In **Magan Bihari Lal v State of Punjab**¹⁵, while dealing with the evidence of a handwriting expert, this Court opined:

‘7. ... we think it would be extremely hazardous to condemn the appellant merely on the strength of opinion evidence of a handwriting expert. It is now well settled that *expert opinion must always be received with great caution and perhaps none so with more caution than the opinion of a handwriting expert.* There is a profusion of precedential authority which holds that it is unsafe to base a conviction solely on expert opinion without substantial corroboration. This rule has been universally acted upon and *it has almost become a rule of law.* It was held by this Court in **Ram Chandra v State of U.P.**¹⁶, that it is unsafe to treat expert handwriting opinion as sufficient basis for conviction, but it may be relied upon when supported by other items of

¹⁴ (1996) 4 SCC 596

¹⁵ (1977) 2 SCC 210

¹⁶ AIR 1957 SC 381



internal and external evidence. This Court again pointed out in *Ishwari Prasad Misra v Mohd. Isa*¹⁷ that expert evidence of handwriting can never be conclusive because it is, after all, opinion evidence, and this view was reiterated in *Shashi Kumar Banerjee v Subodh Kumar Banerjee*¹⁸ where it was pointed out by this Court that an expert's evidence as to handwriting being opinion evidence can rarely, if ever, take the place of substantive evidence and before acting on such evidence, it would be desirable to consider whether it is corroborated either by clear direct evidence or by circumstantial evidence. This Court had again occasion to consider the evidentiary value of expert opinion in regard to handwriting in *Fakhruddin v State of M.P.*¹⁹ and it uttered a note of caution pointing out that it would be risky to found a conviction solely on the evidence of a handwriting expert and before acting upon such evidence, the court must always try to see whether it is corroborated by other evidence, direct or circumstantial.”

15. Of course, it is not safe to base the conviction solely on the evidence of the handwriting expert. As held by the Supreme Court in *Magan Bihari Lal v State of Punjab* that:

“7. ... expert opinion must always be received with great caution ... it is unsafe to base a conviction solely on expert opinion without substantial corroboration. This rule has been universally acted upon and it has almost become a rule of law.”

16. It is fairly well settled that before acting upon the opinion of the handwriting expert, prudence requires that the court must see that such evidence is corroborated by other evidence either direct or circumstantial evidence. In *Murari Lal v State of M.P.*²⁰, the Supreme Court held as under:

“4. ... True, it has occasionally been said on very high authority that it would be hazardous to base a conviction solely on the opinion of a handwriting expert. But, the hazard in accepting the opinion of any expert, handwriting expert or any other kind of expert, is not because experts, in general, are unreliable witnesses — the quality of credibility or incredibility being one which an expert shares with all other witnesses — but because all human judgment is fallible and an expert may go wrong because of some defect of observation, some error of premises or honest mistake of conclusion. The more developed and the more perfect a science,

¹⁷ AIR 1963 SC 1728

¹⁸ AIR 1964 SC 529

¹⁹ AIR 1967 SC 1326

²⁰ (1980) 1 SCC 704



the less the chance of an incorrect opinion and the converse if the science is less developed and imperfect. *The science of identification of fingerprints has attained near perfection and the risk of an incorrect opinion is practically non-existent. On the other hand, the science of identification of handwriting is not nearly so perfect and the risk is, therefore, higher.* But that is a far cry from doubting the opinion of a handwriting expert as an invariable rule and insisting upon substantial corroboration in every case, howsoever the opinion may be backed by the soundest of reasons. It is hardly fair to an expert to view his opinion with an initial suspicion and to treat him as an inferior sort of witness. His opinion has to be tested by the acceptability of the reasons given by him. An expert deposes and not decides. His duty “is to furnish the Judge with the necessary scientific criteria for testing the accuracy of his conclusion, so as to enable the Judge to form his own independent judgment by the application of these criteria to the facts proved in evidence” [Vide Lord President Cooper in *Davis v Edinburgh Magistrate*²¹, quoted by Professor Cross in his evidence].

6. Expert testimony is made relevant by Section 45 of the Evidence Act and where the Court has to form an opinion upon a point as to identity of handwriting, the opinion of a person “specially skilled” “in questions as to identity of handwriting” is expressly made a relevant fact. ... So, corroboration may not invariably be insisted upon before acting on the opinion of a handwriting expert and there need be no initial suspicion. But, on the facts of a particular case, a court may require corroboration of a varying degree. There can be no hard-and-fast rule, but nothing will justify the rejection of the opinion of an expert supported by unchallenged reasons on the sole ground that it is not corroborated. The approach of a court while dealing with the opinion of a handwriting expert should be to proceed cautiously, probe the reasons for the opinion, consider all other relevant evidence and decide finally to accept or reject it.”

18. Keeping in view the above legal position, we find no error in the impugned judgement of the Tribunal, as the petitioners have, in their arsenal, the handwriting opinion of the CFSL and no other evidence, and the respondents were, moreover, not provided with the documents which were found, even by the IO, to be necessary for their

²¹ 1953 SC 34



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defence.

19. We, therefore, find no cause to interfere with the impugned judgment, which is upheld in its entirety.

20. The writ petitions are dismissed, without any orders as to costs.

C. HARI SHANKAR, J.

ANOOP KUMAR MENDIRATTA, J.

DECEMBER 17, 2024/yg

Click here to check corrigendum, if any