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

Date of decision: 19.01.2024

+ W.P.(C) 10621/2018

JITENDER

..... Petitioner

Through: Mr. Nitin K. Gupta with Ms. Ritika
Gautam, Advocates

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Shiva Lakshmi, CGSC with Mr.
Vishal Singh, Advocates.

+ W.P.(C) 10622/2018

CHANDRAKANT TYAGI

..... Petitioner

Through: Mr. Nitin K. Gupta with Ms. Ritika
Gautam, Advocates

versus

UNION OF INDIA AND ORS.

..... Respondent

Through: Mr. Shiva Lakshmi, CGSC with Mr.
Vishal Singh, Advocates.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

REKHA PALLI, J (ORAL)

1. The present writ petitions under Article 226 and 227 of the Constitution of India seek to assail the order dated 04.09.2018 passed by the learned Central Administrative Tribunal in a batch of O.As



including O.A 1445/2025.

2. Vide the impugned order, the learned Tribunal has rejected the OAs preferred by the petitioners wherein they had challenged the cancellation of their candidature in the selection process for appointment to different posts initiated by the Railway Recruitment Cell vide their advertisement dated 30.12.2013.

3. Before dealing with the rival submissions of the parties, the brief factual of the matrix as is necessary for adjudication of the petitions may be noted.

4. Upon an advertisement being issued by the respondent no.2, the petitioners' who were desirous of applying for different posts therein submitted their application and appeared in the written examination held on 23.11.2014. When the result of this examination was declared on 20.02.2015, the petitioners were informed that their result had been withheld. Upon their repeated requests, they were on 16.04.2015, informed by way of their result published on the website of respondent no.2 that their candidature had been rejected on account of having resorted to use of unfair means in the written examination.

5. Being aggrieved they approached the learned Tribunal which has vide impugned orders dismissed their OAs, leading to the filing of the present petition.

6. The primary submission of Mr. Nitin K. Gupta, learned counsel for the petitioners is that the learned Tribunal has failed to appreciate that the rejection of their candidature was wholly illegal as a decision to hold them guilty of having indulged in unfair practices in the written examination was passed without even putting them to any



notice. He submits that the petitioners' candidature has been rejected merely on the basis of some purported information available with the respondents. His plea, thus, is that in case the said information was put to the petitioners, they would have been able to at least give their explanations before a final decision to paint them as having indulged in unfair practices was taken. The respondents having failed to do so, have given a complete go-by to the principles of natural justice which the learned Tribunal failed to appreciate. He, therefore, prays that the impugned orders be set aside and the respondents be directed to supply the petitions with copies of the material against them and then pass a fresh order after the considering the explanation of the petitioners.

7. On the other hand, Ms. Shiva Lakshmi, learned counsel for the respondents supports the impugned order by contending that the decision to cancel the candidature of the petitioners was taken on the basis of a report furnished by an expert committee. This committee, she submits, had carried out a detailed statistical analysis of the answers given by all the candidates. It is only when the committee came to a conclusion that the petitioners were guilty of having indulged in copying that the respondents took a considered decision to cancel their candidature. She further submits that in any event, the petitioners do not have any vested right for appointment and therefore prays that the writ petition be dismissed. After some arguments, she concedes that the respondents did not grant any opportunity to the petitioners to explain their stand before rejecting their candidature.

8. Having considered the submissions of the learned counsel for



the parties and perused the record, we are of the view that even if the respondents' plea that they were justified in cancelling the candidature of the petitioners on the basis of the report furnished by the expert committee, were to be accepted, the fact remains that the petitioners have been held guilty of having indulged in unfair means without even being made aware of the material against them or the specific act of unfair means alleged to have been committed by them. In our view, it was still incumbent upon the respondents to put the petitioners to notice and accord an opportunity to them to submit their explanation. One of the essential components of fair procedure is that the person against whom any penal action is taken must be put to adequate notice and an opportunity ought to have been granted to him/her to put up their best defence. We need not reiterate that the principles of natural justice are not merely an empty formality and ought to be fully complied with especially in a case like the present where the young petitioners are looking to begin their career. They definitely deserve to know the reasons of rejection of their candidature and also submit their explanation, if any against the rejection of their candidature.

9. We therefore have no hesitation in setting aside the impugned orders passed by the learned Tribunal and simultaneously quashing the decision of the respondent to reject the candidature of the petitioners.

10. The respondent are granted liberty to issue show cause notices to the petitioners within four weeks along with all supporting materials/documents in support of their plea that the petitioners had



resorted to unfair means during the aforesaid exam held on 23.11.2014. The petitioners will reply to the said show cause notices within four weeks' whereafter, the respondents will within six weeks, from the date of receipt of the petitioners' reply, pass a reasoned and speaking order thereon.

11. In case the reply furnished by the petitioners is found to be satisfactory, the respondents will take appropriate steps to consider the petitioners' candidature for the post in question. The petitioners would however not be entitled to any benefits of retrospective appointment.

12. Needless to state, in case the petitioners are still aggrieved by any orders passed by the respondents, it will be open for them to assail the said orders as per law.

(REKHA PALLI)
JUDGE

(RAJNISH BHATNAGAR)
JUDGE

JANUARY 19, 2024/ib