

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

WPA 4427 of 2018
CAN 2 of 2025
Sunil Munda
vs.
Union of India & Ors.

Ms. Megha Chanda ... for the petitioner.

Mr. Pramod Kumar Drolia
Mr. Santosh Kumar Pandey ... for the respondents/U.O.I.

Heard on: 14.07.2025 & 29.07.2025

Judgment on: 4th August, 2025.

Ananya Bandyopadhyay, J:-

1. The instant writ petition had been filed for revival of the process of selection cancelled by the respondent authorities vide memo dated 30th March, 2017 considering the entire process of recruitment to have been contrary to the prescribed mode and manner it should have been accomplished. Pursuant to an advertisement by the Ministry of Defence, Government of India, the petitioner had applied for securing the post of Lower Division Clerk under Ministry of Defence at station Head Quarter Binnaguri. On issuance of admit card the petitioner appeared for the written test on 7th August, 2016. Subsequently, he appeared for the skill test i.e. test for computer

typing skill. The petitioner claimed despite being successful in the written test and having performed satisfactorily in the skill test, he was not considered for empanelment. In reply to an application filed under Right to Information Act seeking certain information vide memo being No. 522/BS/A(LDC/ST) dated 10th December, 2016, the petitioner was *inter alia* informed of the marks secured by him in the written examination as well as in the skill test. It was further informed that one Mr. Robin Bara was successful in both written as well as skill test and his candidature was accepted. To his utter dismay, the petitioner convinced of the manipulation and illegalities in the selection process conducted by the respondent authorities filed a complaint dated 28.12.2016 and a further representation to the Defence Minister dated 30.12.2016 indicating the discrepancies and the lapses on the part of the respondent authorities to have selected the candidate as aforesaid. Subsequently, vide memo No. 522/BS/A(LDC/ST) the Administrative Commandant, Binnaguri categorically stated as follows:

- “1. Reference your RTI application dated 18th November, 2016 dated 28th December, 2016, letter to Defense Minister dated 30th December, 2016 received vide DID No. 4913/D(RTI)/2017 dated 09 February, 2017.*
- 2. Based on the complaint the matter was investigated and allegation of corruption were found to be incorrect. However, the individual who was selected did not joint by the due date i.e. 04 Mar 2017. Hence, the whole procedure has been set aside and fresh recruitment is being considered.*
- 3. For your information please”.*

2. The petitioner was not convinced with the opinion of the Administrative Commandant, Binnaguri and was of the opinion since the aforesaid successful candidate Robin Bara failed to join service and the candidature of the second and third empanelled candidates should not be considered. The respondent authorities masqueraded the entire process and cancelled the same in deceptive manner. It was further submitted, though appointment letter was issued in favour of the aforesaid person Robin Bara who failed to join the concerned Department, the respondent authorities manipulatively cited reasons unfavorably to the prejudice of the petitioner who otherwise should have been considered to have been successfully qualified to replace the candidature of Robin Bara as aforesaid and had cited false and fabricated reasons of scrapping the entire process of recruitment upon detection of illegalities therein. Accordingly, the petitioner sought for setting aside the memo dated 30th March, 2017 issued by the Major General, General Officer Commanding, 20 Mountain Division whereby the recruitment of LDC(ST) was found to be incorrect and the order further issued to initiate fresh action for filling up vacancies of LDC(ST) at station headquarters, Binnaguri. It was further submitted since the assessment of computer typing test whereby the petitioner was successful in typing the entire paragraph comprising of 160 words within 5 minutes should have been considered and direct the candidature to be selected to the aforesaid post which should be immediately given effect to.

3. The Learned Advocate representing the respondent authorities submitted on the basis of the application furnished by the petitioner a detailed investigation was ordered by the concerned authorities to find out the veracity, abnormalities and illegalities, if any, in the process of selection through constitution of one man enquiry commission. Upon conclusion of such enquiry on recording of evidence and appreciation of materials on record as well as the answer script and the marks secured by the individual candidate, certain anomalies were detected by the aforesaid enquiry commission which was forwarded to the concerned authority through a recommendation which was accepted. Based on such recommendation, the concerned authority vide a direction issued on 30th March, 2017 had cancelled the entire process of recruitment to the post of LDC(ST) as aforesaid with further direction to initiate fresh process of selection for filling up vacancy for the post of LDC(ST) at station headquarters, Binnaguri. It was denied on the part of the Learned Advocate representing the respondent authorities that on failure of the concerned successful candidate namely i.e. Robin Bara to join the service process was scrapped. Since certain irregularities and fault on the part of the selection authority during the process of selection being the concerned officer of Lt. Col. Ms. Dhaka Hq 66 Mtn, Bde Camp were detected which contradicted the intent of the entire selection process the respondent authorities considered it prudent as well as conducive to cancel the entire process and initiate new process of recruitment for the post of LDC(ST).

4. On the basis of the advertisement as aforesaid seeking applications from the eligible candidates the same appeared for the written as well as the skill test to be entitled for the post of LDC(ST) at station headquarters, Binnaguri. 179 applications were received by the respondent authorities against the vacancy. 63 of such applications were not entertained having been received after due date on scrutiny and out of the remaining applications 32 of the same were accepted to have been proper in its validity and residual applications were rejected. The call letters were issued to 32 candidates whose applications were valid out of which 22 candidates appeared for the written examination. The selection Board conducted written examination on 100 marks and thereafter skill test to assess the knowledge of the computer typing on 7th August, 2016. After the completion of the aforesaid examinations, Board of Officers No.3 recommended the name of the candidate which appeared as LDC 21 namely Robin Bara to be eligible for the aforesaid post. On the basis of the complaint received on 18th November, 2016 addressed to the Defense Ministry, internal enquiry by Administrative Commandant, Station Headquater, Binnaguri was ordered in 31st January, 2017. It was detected consequentially that the candidates could not successfully type out the number of words in English as required within specified period of 5 minutes. More-over, none of the candidates qualified in English computer typing test. It had been the contention of the respondent authorities admitting the fact of inherent error resulting in the merit list comprising of marks in the written examination as well as skill test to be cancelled due to illegalities and

irregularities according to the same being void *ab initio* on the basis of one enquiry commission headed by Col. Virender Singh, SM which was constituted to detect the lapses on the part of the Board of Officers in selection process of requirement to one post of LDC(ST) station headquarters, Binnaguri on 7th August, 2016. It was the observation of the one man enquiry commission that Board No. 2 due to oversight had failed to assess the requirement of computer type test on 35 words per minutes or 175 words in 5 minutes in English as published in the advertisement seeking applications for candidature to the aforesaid post. Under compelling circumstances as aforesaid the entire process of selection was cancelled on the basis of discrepancies as mentioned above.

5. Since the entire process of selection had been cancelled on the basis of evident error as detected by the respondent authorities perceived and actuated by the same in the process of selection could not have been allowed be effective with its inherent deficiency and demerit not only to the present petitioner to his prejudice but also to the public at large. The petitioner had not been aggrieved by the appointment of the successful candidate per se according to his opinion i.e. Robin Bara, since the entire process of selection had been cancelled owing to the defects and imperfections in the process of conducting the selection procedure and not solely on the basis of the aforesaid candidate to have failed to join office on appointment to the post of LDC(ST) at station headquarters, Binnaguri.

16. In view of the aforesaid facts, circumstances and the discussion the instant writ petition is dismissed.

17. The pending applications, if any, stands dismissed.

18. The interim order, if any, stands vacated.

(Ananya Bandyopadhyay, J.)

C.m. A.R. Ct.