
(2019) 10 CAT CK 0088

In the Central Administrative Tribunal

Case No : Original Application No. 1671 Of 2018, Miscellaneous Application No. 1864 Of 2018

Ajay And Ors

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 31-10-2019

Acts Referred:

Citation : (2019) 10 CAT CK 0088

Hon'ble Judges : S.N. Terdal, J;A.K. Bishnoi, Member (A)

Bench : Division Bench

Advocate : Yogesh Kumar Mahur, R.K. Jain

Final Decision : Dismissed

Judgement

S.N. Terdal, J

1. We have heard Mr. Yogesh Kumar Mahur, counsel for applicants and Mr. R.K.Jain, counsel for respondents, perused the pleadings and all documents produced by both the parties.

2. In this OA, the applicants have prayed for the following reliefs:

A. Quash and set aside

"(a) Memo. No. B-1/7/Rectt, PAs 2013 & 2014 dated 11.01.2018 passed by Office of Supdt. Post Offices, Bhiwani Division, Bhiwani-127021, whereby the Applicant No.1 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-14.

(b) Memo. No. B-II/5/Rectt/ 2013-14 dated 11.01.2018 passed by Supdt. Post Offices, Gurgaon Division, Gurgaon-122001, whereby the Applicant No. 2 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(c) Memo. No. B-2/4/Rectt./DR/RA/2013-14 dated 11.01.2018 passed by Supdt.

Post Offices, Hisar Division, Hisar-125001, whereby the Applicant No. 3 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(d) Memo. No. B-II/5/Rectt/ 2013-14 dated 11.01.2018 passed by Supdt. Post Offices, Gurgaon Division, Gurgaon-122001, whereby the Applicant No. 4 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(e) Memo. No. B-I/93/Rectt/ 2013-14 dated 11.01.2018 passed by Office of Supdt. Post Offices, Faridabad Division, Faridabad-121001, whereby the Applicant No.5 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(f) Memo. No. B-15/SantoshKumari dated 12.01.2018 passed by Sr.Supdt. Post Offices, Karnal Division, Karnal-132001, whereby the Applicant No.6 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(g) Memo. No. B-11/Sajan dated 11.01.2018 passed by Office, Supdt. Post Offices, Ambala Division, Ambala-133001, whereby the Applicant No. 7 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(h) Memo. No. B-4/34/Rectt/ 2013-14 dated 12.01.2018 passed by Supdt. Post Offices, Kurukshetra Division, Kurukshetra-136118, whereby the Applicant No. 8 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(i) Memo. No. B-11/Pankaj Rohilla dated 11.01.2018 passed by Supdt. Post Offices, Ambala Division, Ambala-133001, whereby the Applicant No. 9 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(j) Memo. No. B-I/7/Rectt/PAs 2013-14 dated 11.01.2018 passed by Supdt. Post Offices, Bhiwani Division, Bhiwani-127021, whereby the Applicant No.10 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(k) Memo. No. B-II/5/Rectt/ 2013-14 dated 11.01.2018 passed by Supdt. Post Offices, Gurgaon Division, Gurgaon-122001, whereby the Applicant No.11 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(l) Memo. No. B-2/4/Rectt/DR/PA/2013-14 dated 11.01.2018 passed by Supdt. Post Offices, Hisar Division, Hisar-125001, whereby the Applicant No.12 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(m) Memo. No. B-15/Sandeep dated 12.01.2018 passed by Sr. Supdt. Post

Offices, Karnal Division, Karnal-132001, whereby the Applicant No. 13 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(n) Memo. No. B-15/DeepikaMadan dated 12.01.2018 passed by Sr.Supdt. Post Offices, Karnal Division, Hisar-125001, whereby the Applicant No. 14 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(o) Memo. No. B-15/Sunil dated 12.01.2018 passed by Sr.Supdt. Post Offices, Karnal Division, Hisar-125001, whereby the Applicant No. 15 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(p) Memo. No. B-2/13/Rectt/PA/ 2013-14 dated 11.01.2018 passed by Sr.Supdt. Post Offices, Rohtak Division, Rohtak, whereby the Applicant No.16 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(q) Memo. No. B-II/5/Rectt/ 2013-14 dated 11.01.2018 passed by Supdt. Post Offices, Gurgaon Division, Gurgaon-122001, whereby the Applicant No. 17 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(r) Memo. No. B-2/Recruitment/Umed Singh/SA/2013-14 dated 12.01.2018 passed by Superintendent, RMS 'D' Division, New Delhi-110021, whereby the Applicant No. 18 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(s) Memo. No. B-2/Recruitment/Bir Singh Yadav/SA/2013-14 dated 12.01.2018 passed by Superintendent RMS 'D' Division, New Delhi-110021, whereby the Applicant No. 19 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(t) Memo. No. B-2/Recruitment/AmitRathee/SA/2013-14 dated 12.01.2018 passed by Superintendent RMS 'D' Division, New Delhi-110021, whereby the Applicant No.20 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(u) Memo. No. STA/24-259 dated 10.01.2018 passed by Director Postal Services (HQ) Haryana Circle, Ambala-133001, whereby the Applicant No. 21 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(v) Memo. No. B-2/4/Rectt/DR/PA/2013-14 dated 11.01.2018 passed by Supdt. Post Offices Hisar Division, Hisar-125001, whereby the Applicant No.22 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(w) Memo. No. B-2/13/Rectt/PA/2013-14 dated 11.01.2018 passed by Sr. Supdt.

Post Offices Rohtak Division, Rohtak, whereby the Applicant No.23 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(x) Memo. No. B-2/4/Rectt/DR/PA/2013-14 dated 11.01.2018 passed by Supdt. Post Offices Hisar Division, Hisar-125001, whereby the Applicant No. 24 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(y) Memo. No. B-4/34/Rectt/2013-14 dated 12.01.2018 passed by Supdt. Post Offices Kurukshetra Division, Kurukshetra-136118, whereby the Applicant No. 25 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(z) Memo. No. B-4/34/Rectt/2013-14 dated 12.01.2018 passed by Supdt. Post Offices Kurukshetra Division, Kurukshetra-136118, whereby the Applicant No. 26 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(aa) Memo. No. B-2/4/Rectt/DR/PA/2013-14 dated 11.01.2018 passed by Supdt. Post Offices Hisar Division, Hisar-125001, whereby the Applicant No. 27 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013- 2014.

(bb) Memo. No. B-2/4/Rectt/DR/PA/2013-14 dated 11.01.2018 passed by Supdt. Post Offices Hisar Division, Hisar-125001, whereby the Applicant No. 28 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(cc) Memo. No. B2/Recruitment/Sandeep Kumar/SA/2013-14 dated 12.01.2018 passed by Superintendent RMS 'D' Division, New Delhi-110021, whereby the Applicant No. 29 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(dd) Memo. No. B-II/5/Rectt/2013-14 dated 11.01.2018 passed by Supdt. Post Offices Gurgaon Division, Gurgaon-122001, whereby the Applicant No.30 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(ee) Memo. No. B-II/5/Rectt/2013-14 dated 11.01.2018 passed by Supdt. Post Offices Gurgaon Division, Gurgaon-122001, whereby the Applicant No. 31 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(ff) Memo. No. B-1/93/Rectt/2013-14 dated 11.01.2018 passed by Supdt. Post Offices Faridabad Division, Faridabad-121001, whereby the Applicant No.32 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(gg) Memo. No. B-4/7/2014 dated 11.01.2018 passed by Supdt. Post Offices,

Sonipat Division, Sonipat-121001, whereby the Applicant No.33 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

(hh) Memo. No. B-1/7/Rectt/Pas 2013 & 2014 dated 11.01.2018 passed by Supdt. Post Offices Bhiwani Division, Bhiwani-127021, whereby the Applicant No.34 was removed from the list of selected candidates in respect of PA/SA Direct Recruitment Examination for the year 2013-2014.

B. Direct the respondents to allow the applicants to join their services with full back wages.

C. Any other relief the Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case."

3. The relevant facts of the case are that the applicants appeared in the selection process of Postal Assistant/Sorting Assistant by filling up application forms against the Notification of the respondent-Postal Department issued on 21.02.2014. Tests were conducted in different circles. The examination was conducted by a Private Agency, namely, CMC Limited. The applicants appeared in aptitude (paper-I) and computer/typing test (Paper-II). In the said selection process, including the applicants 199 candidates were appointed as Postal Assistant. Subsequently the Postal Directorate conducted vigilance enquiry in the entire recruitment process on the basis of complaints received from various quarters wherein serious malpractices were alleged on the part of the candidates and the employees of the CMC limited. On the basis of the enquiry, the respondents cancelled the examination results of 5 circles and the services of all the 199 candidates of all the five circles were terminated in 2015. The said termination orders were challenged by filing Original Applications before various Benches of the Central Administrative Tribunal. Ultimately, the matter reached the Hon'ble Supreme Court in Civil Appeal no. 10513/2016 titled Monu Tomar and Others Vs. Union India & Ors. The Hon'ble Supreme Court set aside the en masse termination of all the candidates and directed that the specific malpractice resorted to by each individual candidate be identified and Show Cause Notice (SCN) and an opportunity of explaining their individual malpractice be accorded to them and their representation be considered and final decision be taken with respect to each of the candidates. The order passed by the Hon'ble Supreme Court is extracted below:- "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 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."

As per the statistics submitted by counsel for the respondents initially 199 candidates were terminated. In compliance with the order of the Hon'ble Supreme Court 101 candidates were reinstated. Four (4) candidates did not report and Six (6) candidates resigned/expired; and as specific violation of specific instructions were identified and SCNs were issued to 88 candidates. After considering the reply given by the candidates, 51 were reinstated out of 88. Similarly after consideration of the reply, specific orders were passed holding that there is use of malpractice by the candidates in with respect to Optical Mark Recognition (OMR) sheets by manual interference and on that basis 37 candidates were not reinstated. Out of those 37 candidates 34 candidates have filed the present OA. With respect to each of the candidates SCN was issued, referring to specific facts and violation of specific instructions given on the reverse of the OMR sheet particularly with respect to bubbling of the OMR sheet which the machine could not have evaluated automatically by scanning, and without the manual interference at the behest of the candidates with the connivance with the officials of the CMC limited. After considering the

representation each of the applicants orders were passed giving details of the consideration of the representation and the malpractice in which they were involved vide order dated 11.01.2018. The malpractice alleged with respect to each of the candidates is enumerated in the OA itself at para 4.15 which is extracted below:-

Sl.No.

Name of the Applicant

Malpractices alleged in the show cause notice

Reason given in termination order

1

Ajay (Applicant No.1)

Marked invalid registration number in OMR sheet

Applicant did not darken the correct corresponding circle in Serial No. 3 of OMR sheet. Thus OMR sheet could not be processed by computer and the same was evaluated manually. Thus a clear case of malpractice.

2.

Paras (Applicant No. 2)

Applicant did not mark roll no., registration no., category and question booklet series. Applicant did not give his own email ID.

Applicant did not mark roll no., registration no., category and question booklet series in the OMR sheet. Thus there is a clear malpractice.

3.

Sandeep Kumar (Applicant No.3)

Marked wrong roll no. on OMR sheet

The applicant marked/ filled up wrong/ incorrect roll no. in bubbles in the OMR sheet. Thus his answer sheet should not have been evaluated and the same was evaluated manually. Thus clear case of malpractice.

4.

Kapil Dev (Applicant No.4)

Applicant had written wrong registration no. in the OMR sheet

The applicant had wrongly filled the registration no. and thus the answer-sheet were not evaluated automatically by the OMR scanning machine and the same was evaluated manually. Thus a clear case of malpractice.

5.

Sandeep (Applicant No.5)

The applicant used correcting fluid to change roll no. on OMR sheet.

The applicant had wrongly filled/used correcting fluid in the space provided for roll no. Hence the answersheet should not have been evaluated. Thus clear case of malpractice.

6.

Shiv Kumar (Applicant no.6)

The applicant did not bubble question booklet no.

The applicant did not provide information on serial no. 6 of OMR sheet. Thus the OMR sheet was evaluated manually. Thus there is a clear indulgence in malpractice.

7.

Santosh Kumari (Applicant No.7)

The applicant has not written question booklet series and wrongly marked roll no in OMR sheet.

The applicant had wrongly filled/left a bubble blank in the space provided for roll no. Hence the answer sheet is invalid and the same should not have been evaluated. Thus a clear case of malpractice

8.

Sajan (Applicant No.8)

The applicant used fluid at option B while marking the answer of question no. 78 in part D of OMR in part D of OMR sheet and he further marked answer C with pen and got awarded one mark. As per instructions no change/cutting /over writing was permitted and correcting fluids should not be used.

The fluid was used by the applicant and he has been awarded one mark for the changed answer. Thus awarding one mark for the answer where the fluid was used implies that the OMR sheet was evaluated manually. Thus a clear case of malpractice.

9.

Sunil Kumar (Applicant no. 9)

The applicant did not bubble the question booklet no. in the OMR answer-sheet under serial no. 6.

The applicant did not bubble question booklet no. in OMR sheet. Thus a clear case of malpractice.

10.

Pankaj Rohilla (Applicant No. 10)

The applicant filled up the wrong registration no. and also marked wrong bubble in registration no. The applicant did not give his own email ID.

The applicant was allotted registration no.DOP019530682 Whereas he has written his registration no. as DOP015530682 and also marked bubble accordingly. The OMR sheet was not evaluated by electronic means and the same has not only been evaluated but the applicant has also been declared successful, which establishes the level of malpractice by the examination conducting agency and the candidate.

11.

Amit (Applicant no. 11)

The applicant used fluid in OMR sheet in answering questions.

The applicant used fluid for correcting the answer in the OMR sheet and he has been awarded one mark for the changed answer. Thus awarding one mark for the answer where fluid was used implies that the OMR sheet was evaluated manually. Thus, there is clear malpractice.

12.

Sumeer Kumar (Applicant No. 12)

The applicant has not marked the question booklet no. in the OMR answer sheet.

The applicant has not marked the question booklet no in the OMR answer sheet, which is in violation of instruction no. 5 given on the reverse of OMR sheet. These violations on the part of agency reiterate that OMR sheets were not evaluated automatically by the OMR scanning machine and the same is evaluated manually. Thus the applicant had indulged in malpractice

13.

Rakesh Kumar (Applicant No. 13)

The applicant had marked/filled up his registration number incorrect/incomplete on the OMR answer sheet.

The applicant had filled up his registration number incorrect/ incomplete in bubbles in the OMR answer sheet. As per the instruction No. 2, his answer sheet should not have been evaluated, whereas the same was evaluated in violation of the laid down instructions which implies that the instant OMR sheet was evaluated manually. Thus there is clear malpractice.

14.

Deepika Madan (Applicant No. 14)

The applicant has not written her complete Roll No. on OMR sheet.

The applicant has wrongly filled/left a bubble blank in the space provided for roll no. tantamount to violation of instructions no. 2 mentioned at back of OMR answer sheet because answer sheet was to be processed by electronic means i.e. computer, OMR scanner which means only bubbles /circle/ovals. Hence the answer sheet is invalid and should not have been evaluated. Thus there is clear malpractice.

15.

Sunil (Applicant No.15)

The applicant has not marked registration number in OMR sheet.

The applicant has not marked registration number in OMR sheet. The applicant has wrongly filled/left a bubble blank in the space provided for registration no. which tantamount to violation of instructions no.2 mentioned at back of OMR answer sheet because answer sheet was to be processed by electronic means i.e. computer, OMR scanner which means by bubble/ circle /ovals. Hence the answer sheet is invalid and should not have been evaluated. Thus, there is clear malpractice.

16.

Sushil Kumar (Applicant No. 16)

The applicant has marked wrong registration No. and has used fluid in registration No. and also in bubbles.

The applicant has filled up wrong regn. No. (DOP025934422) instead of (DOP025984422). Hence as per instruction no. 14 the answer sheet should not have been evaluated but it was evaluated and the candidate was declared selected. Thus there is clear malpractice.

17.

Sandeep Kumar (Applicant No. 17)

Applicant failed to darken the some bubbles properly in respect of roll number and question booklet number in the OMR answer sheet.

The applicant failed to darken the some bubbles properly in respect of roll number and question booklet number in the OMR answer sheet, which is in violation of instructions given on the reverse of the OMR sheet. These violations on the part of agency reiterate that OMR sheets were not evaluated automatically by the OMR scanning machine. The OMR sheet is evaluated manually. Thus there is a clear indulgence in malpractice.

18.

Umed Singh (Applicant No. 18)

The applicant has not marked category and question booklet series and also

marked wrong roll no. in the answer sheet.

The applicant marked wrong roll no., not marked category and not marked question booklet series in the answer sheet, which is in violation of the instruction No. 2 and 5 given on the reverse of OMR sheet. Thus the OMR sheets were not evaluated automatically by the OMR scanning machine. Thus there is a clear indulgence in malpractice.

19.

Bir Singh (Applicant No. 19)

The applicant has marked wrong question booklet number in answer sheet.

The applicant has marked wrong question booklet number in answer sheet. The OMR sheet were evaluated automatically by the OMR scanning machine. Thus there is a clear indulgence in malpractice.

20.

Amit Rathee (Applicant No. 20)

The applicant did not encircle/bubble the question booklet number in answer sheet.

The applicant did not encircle / bubble the question booklet number in answer sheet. The OMR sheet were not evaluated automatically by the OMR Scanning Machine. Thus there is a clear indulgence in malpractice.

21.

Parveen Kumar (Applicant No.21)

The applicant used fluid at option A while marking answer of question No. 41 in Part-B of OMR answer sheet. He further marked answer C with pen and got awarded one mark for it.

The fluid was used by the applicant and he was awarded one mark for the changed answer. Awarding one mark for the answer where fluid was used implies conclusively that the OMR sheet was evaluated manually. Thus there is clear malpractice.

22.

Anil Kumar (Applicant no.22)

The applicant has marked/filled up wrong/incorrect registration no in OMR answer sheet.

The applicant has marked/filled up wrong/ incorrect registration no. in bubbles in OMR answer sheet, which is read over by the scanner machine while marking the OMR answer sheet by electronic means i.e. computer. His answer sheet should not have been evaluated and the same was evaluated manually. Thus a

clear case of malpractice.

23.

Ravinder (Applicant No.23)

The applicant used fluid at OMR answer sheet and got awarded marks for it from the outsourcing agency.

The applicant used fluid at OMR answer sheet. The OMR sheet was evaluated manually. Thus, there is clear malpractice in the instant case.

24

Renu (Applicant No. 24)

The applicant has not marked/filled in question booklet number in bubbles on OMR answer sheet and she got same marks as obtained by group of eight candidates including her who got same question paper series.

The applicant has not marked / filled in question booklet number in bubbles on OMR answer sheet, which is read over by the scanner machine while marking the OMR answer sheet by electronic means i.e. computer. As per instruction No. 2 her answer sheet should not have been evaluated whereas the same was evaluated in violation of the instructions which implies that the OMR sheet was evaluated manually. Thus a clear case of malpractice.

25.

Hardeep (Applicant No. 25)

The applicant used whitener/ fluid for marking roll no. and registration no in the OMR sheet.

The applicant has used whitener/fluid at oval portion at serial no. 2 and 3 in roll no. and registration columns respectively. Thus it is clear case of malpractice.

26.

Sudhir (Applicant No. 26)

The applicant used whitener/fluid for marking registration no. in OMR sheet.

The applicant used whitener/fluid/cutting in figure and oval portion at serial no. 3 in registration column. The applicant used rubber to erase the wrong digits and filled up the correct figures of registration no. Thus there is clear case of malpractice.

27.

Sanjay (Applicant No.27)

The applicant has not marked/ filled complete question booklet no. on OMR answersheet.

The applicant has not filled in his question booklet no. completely in bubbles in the OMR answersheet which is read over by the scanner machine while marking the OMR answer sheet by electronic means. As per the instruction No. 2 his answer sheet should not have been evaluated, whereas the same was evaluated in violation of the instructions which implies that the OMR sheet was evaluated manually. Thus it is clear case of malpractice.

28.

Ishwar (Applicant No. 28)

The applicant has marked/filled wrong roll no. on OMR answer sheet.

The applicant has marked/filled wrong/ incorrect roll no. in bubbles in OMR answer sheet which is read over by the scanner machine while marking the OMR answer sheet by electronic means i.e. computer. As per the instruction No. 2 his answer sheet should not have been evaluated, whereas the same was evaluated in violation of the instructions which implies that OMR sheet was evaluated manually. Thus it is the clear case of malpractice.

29.

Sandeep Kumar (Applicant No. 29)

Applicant marked wrong registration no in the answersheet

The applicant has marked wrong registration no in the answer sheet, it is mentioned in the instruction no. 2 and 14 available on backside of OMR sheet that if the candidate has filled up an incorrect roll no/registration no /question booklet no/series of the question booklet, his answer sheet will become invalid and will be not be evaluated and no change/ cutting/overwriting is permitted and correcting fluid should not be used. The applicant wrote wrong registration no. The OMR sheet was evaluated manually. Thus, it is clear case of malpractice.

30.

Yogesh (Applicant No.30)

The applicant has not marked question booklet no. in the OMR answer sheet.

The applicant did not mark question booklet no in the OMR answersheet, which is in violation of instruction no. 5 given on the reverse of OMR sheet. The OMR sheet of the applicant was evaluated manually. Thus the applicant not indulged in malpractices.

31.

Tarun Kumar (Applicant No.31)

The applicant used whitener/fluid in the OMR sheet.

The applicant used whitener in the OMR sheet. Thus the applicant has indulged

in malpractice.

32.

Deepak Chhillar (Applicant No. 32)

The applicant has marked his roll no incorrectly by filling two bubbles in the same column of the roll no in OMR sheet.

It is mentioned in instruction no.2 that if candidate has filled up incorrect roll no/ registration no./ question booklet no /series of question booklet then his answersheet will not be evaluated. The applicant marked two bubbles in the same column of the roll no. which implies that OMR sheet was evaluated manually which is the violation of instruction no. 5 of the instructions available on the backside of OMR sheet. Thus, it is a clear case of malpractice.

33.

Sanjay Kumar (Applicant NO. 33)

The applicant used fluid in the bubble meant for darkening the roll no in OMR sheet.

It is mentioned in instruction No. 14 of instructions available on back side of the OMR sheet that no change /cutting/overwriting is permitted and correcting fluid should not be used. As per instruction no.5 in instructions at back side of OMR sheet, the answer sheet was to be processed by electronic means i.e. computer. Awarding one mark for the answer where fluid was used implies that OMR sheet was evaluated manually, thus it is a case of malpractice.

34.

Dimpal Verma (Applicant No. 34)

The applicant used fluid in marking roll no. in bubbles in OMR sheet at serial No. 2 and used fluid in OMR sheet but score was awarded.

It is mentioned in instruction no. 2 that if the applicant has filled up the incorrect roll no/ registration no/series of question booklet no/ question booklet no., his answer sheet will be invalid and will not be evaluated.As mentioned in instruction No. 14 of instructions available on backside of carbonless copy of OMR sheet that no change /cutting/ overwriting is permitted and correcting fluid should not be used. The applicant used fluid and she has been awarded one mark for changed answer. As per instruction no. 5 of the instruction at backside of OMR sheet, the answer sheet was to be processed by electronic means i.e. computer. Awarding one mark for answer where fluid was used that OMR sheet was evaluated manually. Thus it is a case of malpractice.

4. The counsel for the applicants vehemently and strenuously contended that the allegation of malpractices made against these applicants are similar to the allegation of malpractices made with respect to many other candidates who were

reinstated after considering their respective representations, whereas the representations of the applicants were not found favour with the respondents. With respect to the above allegations of the counsel for the applicants, as per the direction of the Tribunal, the respondents produced original OMR sheets. In case of one, he had not darkened the bubble with respect to the answer to a particular question in the OMR sheet. The said candidate was not given any marks for not having darkened the bubble for the said question and as such there was no human interference, as such the explanation was accepted. In the case of OMR sheet of applicant no.1, he had not darkened the bubbles in Serial No. 3 of the answer sheet i.e. Roll No./Registration No hence it could not have been processed by the computer and his OMR sheet could not have been evaluated without human interference, as held by the impugned order. The counsel for the applicants further contended that there is no malpractice committed by the applicants at all, the alleged malpractices were minor lapses, and the respondents have mechanically and literally applied the concerned instructions and taking a myopic, unreasonable and arbitrary view and held that the allegations of malpractices were established. In support of his contention he relied upon the judgment passed by the Madurai Bench of Hon'ble High Court of Madras in W.P (MD) No. 2406/2015, titled T.Vellisubbaian Vs. The Director Department of School Education and Others and order passed by this Bench in OA No.2467/2017 decided on 23.10.2017, titled Sh. Rohit Kumar and Ors. Vs. UOI & Ors.

5. The counsel for the respondents submitted that there is no arbitrariness or unreasonableness in consideration of the representations/ explanations of the applicants in each one of the cases. He further submitted that is not only violation of the instructions but there is human interference in such a way that the OMR sheet which could not have been evaluated automatically by OMR scanner were evaluated at the behest of the respective candidates with the connivance of the officials of the CMC Limited. He further submitted that the instructions were very clear and they were published both in Hindi & English. In support of his contention, he relied upon the judgment of Hon'ble Supreme Court in the State of Tamil Nadu & Anr Vs. A.Kalaimani & Ors (Civil Appeal Nos. 6190-6201 of 2019) and the judgment of Hon'ble High Court of judicature at Allahabad in Special Appeal No. 379/2016 in the case of Kadambinee and 60 others Vs. State of UP and Another.

6. In view of the facts and circumstances narrated above and in view of the law laid down by various Courts and particularly in view of the law laid down by the Hon'ble Supreme Court in the case of Karnataka Public Service Commission Vs. B.M. Vjaya Shankar (1992) 2 SCC 206), we find that the impugned orders passed by the respondents with respect to each of the applicants cannot be interfered with.

7. Accordingly, the OA is dismissed. No order as to costs.