

(2023) 02 CAT CK 0025

In the Central Administrative Tribunal

Case No : Original Application No. 761, 764, 765 Of 2019, 318 Of 2020

Satish Kumar Meena

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 08-02-2023

Acts Referred:

Citation : (2023) 02 CAT CK 0025

Hon'ble Judges : R N Singh, Member (J); Sanjeeva Kumar, Member (A)

Bench : Division Bench

Advocate : Ajesh Luthra, R.K. Jain

Final Decision : Allowed

Judgement

R.N. Singh, Member (J)

1. As common questions of law and facts are involved in these four OAs (viz. OA No.761/2019, OA No.764/2019, OA No.765/2019 and OA No.318/2020), with the consent of the learned counsels appearing for both the parties, OA No.761/2019, OA No.764/2019 and OA No.765/2019 were heard together on 30.01.2023 and OA No.318/2020 was heard on 01.02.2023, as Mrs. Anupama Bansal, learned counsel for the respondents sought some time on 30.01.2023 to argue the matter. Therefore, they are being disposed of through this common order. However, for the sake of convenience, the facts of OA No.761/2019 are being taken as a lead case.

2. The applicant has sought the following relief(s):

"a) quash and set aside the impugned orders/action of the respondents placed at Annexure A/1 (order dated 20.12.2018) and Annexure A/2 (show cause notice dated 10.12.2018) and

b) direct the respondents to forthwith reinstate the applicant in service and

c) Accord all consequential benefits, including back wages and

d) Award costs of the proceedings; and

e) Pass any order/relief/direction(s) as this Hon'ble Tribunal may deem fit and proper in the interests of justice in favour of the applicants."

3. Briefly stated the applicant was selected to the post of Postman pursuant to his participation in the selection process/examination conducted by the Department of Posts.

4. The applicant, thereafter, on receipt of a formal appointment order, joined his duties. However, later, a show cause notice was issued to him on 10.12.2018 (Annexure A-2), wherein it was alleged that on re-examination of the various documents, it was found that the signature he had marked on his attendance sheet during the re-examination differed from those which were there in the attestation form and the specimen signature he has submitted at the stage of recruitment. The respondents vide another notice dated 18.12.2018 offered an opportunity to the applicant to inspect the relevant document also. However, before he could avail the said opportunity, vide impugned order dated 20.12.2018 (Annexure A-1) his services were terminated on the ground of mismatch of the signature in different documents, as opined by the Central Forensic Science Laboratory, (CFSL).

5. Shri Ajesh Luthra, learned counsel for the applicants squarely rests his argument on a judgment rendered by Ahmedabad Bench of this Tribunal in an identical matter and submits that the said judgment was discussed in detail by this very Bench of the Tribunal in its order dated 02.08.2022 passed in OA No. 1040/2021. Learned counsel submits that the issue is limited to this only. The grounds and the documents including the opinion of CFSL which formed the basis of the decision of the respondents to terminate the services of the applicant were never shared with the applicant while show cause notice was issued to him. Therefore, the applicant was effectively prevented from putting up his defense or explanation.

6. He submits that the elementary principles of natural justice has blatantly been violated in the instant matters as copy of the CFSL report was not supplied to the applicants, which in turn has deprived them of an opportunity of getting an expert opinion and without any substantial evidence and/or any corroborating evidence, the respondents have imposed the harsh penalty upon them. What to talk of conducting a regular enquiry into the matter. He reiterates that there is only a show cause notice and that too without any supporting documents, followed by order of termination of services.

7. Learned counsel again finds support from the judgment passed by this Tribunal in OA No. 1040/2021 along with 3 other associated OAs and submits that this Tribunal relying upon judgment of the Ahmedabad Bench had held that in case there was material available with the respondents to issue the show cause notice to the applicant, it was incumbent upon them to supply such documents and evidence to the applicant before taking a decision on the said

show cause notice.

8. Learned counsel further points out that judgment passed by this Tribunal in OA No. 1040/2021 along with 3 other associated OAs has since been followed by a Coordinate Bench of this Tribunal where one of us (Mr. R.N. Singh was also a Member) in OA No.1636/2019 and 2 other connected OAs in Manoj Kumar etc. etc. v. Union of India & Anr. decided on 23.11.2022. He, therefore, prays that these OAs may also be decided in terms of the directions given by the Tribunal in the aforesaid cases.

9. Mr. R.K. Jain, learned counsel for the respondents in OA No.761/2019, OA No.764/2019 and OA No.765/2019 on the other hand points out that the instructions governing the selection examination categorically mention that in case any discrepancy is detected at any stage, the candidature, as also the appointment is liable to be cancelled. In the instant matter not only has the discrepancy been detected, this discrepancy also amounts to a serious malpractice. He further argues that this discovery has been made by an expert agency of the Government of India, i.e. CFSL manned by forensic scientists. Accordingly, since it has been scientifically established that there is discrepancy in the signature, it can be reasonably inferred that the applicants are guilty of malpractice. He, however, does not dispute that the issue raised herein is squarely covered by the decisions of the coordinate Benches of this Tribunal referred to hereinabove.

10. Mrs. Anupama Bansal, learned counsel for the respondents in OA No.318/2020 submits that the issue raised in the instant OA is not covered by the earlier decisions of this Tribunal as referred to hereinabove and further points out that in earlier cases the reports of CFSL were not shown to the applicants but in the present case it has been shown to the applicant and he has been given an opportunity to inspect all the relevant documents. She further reiterates that the instructions governing the selection examination categorically mention that in case any discrepancy is detected at any stage, the candidature, as also the appointment is liable to be cancelled. In the instant matter this discrepancy has been detected within two months, which amounts to a serious malpractice. She further argues that this discovery has been made by an expert agency of the Government of India, i.e. CFSL manned by forensic scientists. Accordingly, since it has been scientifically established that there is discrepancy in the signature, it can be reasonably inferred that the applicant is guilty of malpractice.

11. Having heard the learned counsels for the parties and having gone through the documents on record, we are of the considered view that the issue involved in the present OAs have been considered and adjudicated upon by us in the aforementioned OA No. 1040/2021 along with 3 other connected OAs, which has also been further followed by a Coordinate Bench of this Tribunal in OA No.1636/2019 and 2 connected OAs.

12. Since the issue involved in the present cases stand adjudicated in many

cases as referred to hereinabove and the relief in the aforesaid OAs stands awarded, we need to apply it to all other identically situated, and extend the same benefits in the interest of equity and parity.

13. In the case in hand the impugned order of termination besides being stigmatic is also the harshest of penalties. Since the principles of natural justice do not appear to have been adhered to nor has any supporting or corroborating evidence been supplied to the applicants along with show cause notice, the action of the respondents cannot be sustained.

14. We have no hesitation in allowing these OAs and setting aside the impugned order(s). The matter is remitted back to the Competent Authority amongst the respondents with a direction to reinstate the applicant(s) within a period of four weeks from the date of this order.

15. The respondents, however, shall be at liberty, to take further action in the matter strictly in accordance with law and the provision of rule governing the subject. The OAs stands allowed in the light of these directions.

16. Subsequent to these directions, the applicants shall be entitled to the consequential benefits, however strictly on notional basis. The Competent Authority shall pass a separate order with respect to the treatment of the intervening period i.e. the period from the date when the services of the applicants were terminated till the date of reinstatement, strictly in accordance with law as well as keeping in view the direction and observations made by us hereinabove.

17. There shall be no orders as to costs.

18. Pending MAs, if any, shall also stand disposed of accordingly.

Let a copy of this order be kept in OA No.764/2019 OA No.765/2019 and OA No.318/2020 also.