

(2019) 05 DEL CK 0140

In the Delhi High Court

Case No : Civil Writ Petition No. 6256 Of 2019

Sombir

APPELLANT

Vs

Staff Selection Commission & Anr

RESPONDENT

Date of Decision : 29-05-2019

Acts Referred:

Citation : (2019) 05 DEL CK 0140

Hon'ble Judges : Vipin Sanghi, J;Rajnish Bhatnagar, J

Bench : Division Bench

Advocate : Anunaya Mehta, Akshay Deep Singhal, Yashish Chandra, Yashaswi S.K.Choudhry

Judgement

Vipin Sanghi, J

CM No.26788/2019

Exemption allowed subject to just exceptions.

The application stands disposed of.

W.P.(C.) No. 6256/2019 & CM No.26789/2019

1. Issue notice. Counsel for the respondents accepts notice.
2. The petitioner has preferred the present petition to assail the order dated 25.2.2019 passed by the Central Administrative Tribunal Principal Bench in OA 1380/2016.
3. The petitioner had assailed the rejection of his candidature and his being debarred for a period of three years by the respondent on the allegation that he had resorted to unfair means in the examination. Before the Tribunal, the case of the respondent was that the petitioner's examination form, answer-sheets and other documents were sent to the CFSL, who had opined that there was some mis-match, and consequently, it was inferred that the petitioner had resorted to malpractice and unfair means while appearing in the examination.

4. Before the Tribunal, it appears that the respondent produced-for the first time, the result of examination conducted by the CFSL dated 15.2.2016. The said result of examination reads as under:-

"RESULT OF EXAMINATION

"The documents of this case have been carefully and thoroughly examined.

1. The person who wrote the enclosed signatures stamped and marked S1, S2, S2/20, S3, S4 and S5 did not write the enclosed signature similarly stamped and marked A3.

2. The writing and signatures in the enclosed stamped and marked A1,A2, A2/1 and S1, S2, S2/1 to S2/20, S3, S4 and S5 have been written by one and the same person."

5. On the aforesaid premise, the Tribunal had rejected the original application.

6. The submission of Mr. Mehta, learned counsel for the petitioner is that the impugned order is completely devoid of reasons and the Tribunal has rejected the Original Application without examining the issues which arose. Mr. Mehta submits that he had advanced several arguments before the Tribunal, which have neither been recorded, nor dealt with by the Tribunal while passing the impugned order. The only discussion found in the impugned order passed by the Tribunal is in six lines in para 6, which reads as follows:-

"6. In view of the expert opinion given in this case by CFSL stating that the signatures and some of the handwritings do not tally as also in view of the judgment and orders referred to above by the counsel for the respondents, we are of the opinion that the impugned order dated 7.03.2016 passed by the respondents is neither arbitrary nor whimsical and cannot be interfered with."

7. We are completely dismayed with the manner in which the Tribunal, is, at times, dealing with matters before it. Frequently, we are receiving cryptic orders from the Tribunal, which display total non-application of mind. The Tribunal has been disposing of the Original Applications without due examination and appreciation of the facts and submissions of parties. We fail to understand as to how the Tribunal could have disposed of this matter by merely relying upon the cryptic report of the CFSL, particularly when the same was not even accompanied by the relevant documents, with the relevant marking/portions which the CFSL claims to have examined. The Tribunal has denied a fair opportunity to the petitioner to defend the serious allegation made against him, on the basis of which he has been condemned. The least that the Tribunal could have done, was to direct the respondent to produce before it the complete report of the CFSL along with the relevant documents, and the petitioner should have been granted an opportunity to deal with the same. The Tribunal should have then applied its mind whether the allegations against the petitioner are reasonably made out, or not. Nothing has been done by it, and very casually the Original Application has been rejected by proceeding on the basis that the

inferences drawn by the respondents are the last word. This is complete abdication of its jurisdiction by the Tribunal - at the cost of the basic right of the petitioner, to receive fair treatment.

8. We are sorry to say that the Tribunal, at times, is not discharging its statutory obligation. This has been experienced by us in several cases. We have earlier as well called upon the Tribunal to undertake deeper scrutiny of cases, since it is the first port of call for the litigant, but it seems our advice has gone unheeded.

9. During the course of hearing, several members of the Bar who regularly appear before the CAT have, in chorus, pleaded that the Tribunal is not recording the submissions of the parties or dealing with them while passing orders. This submission of learned counsels finds reflection in the orders passed by the Tribunal in the present case as well.

10. Though we feel like directing audio-video recording of the court proceedings of the Tribunal in the extra ordinary situation prevailing there, in view of the judgments in *Vikram Bakshi v. State & Another*, 2017 SCC OnLine Del 9136 and *Deepak Khosla v. Union of India & Others*, 2011 SCC OnLine Del 3337, we refrain from doing so.

11. Though this is a fit case for remand to the Tribunal, we have decided to deal with the same ourselves. We direct the respondents to file a detailed counter-affidavit placing on record the complete report of the CFSL relied upon before the Tribunal within six weeks. Rejoinder be filed before the next date of hearing.

12. We direct that the copy of the order be served upon the concerned Minister and the Secretary, Ministry of Personnel Public Grievances and Pensions, New Delhi-respondent no.2 for them to take such remedial steps as may be considered necessary to deal with the situation we have taken note of hereinabove.

13. A copy of this order be also sent to the Registrar of the Central Administrative Tribunal, Principal Bench, New Delhi for onward communication to the Chairman and the members of the Tribunal.

14. List on 20.08.2019. Dasti.