
(2007) 03 PAT CK 0056
In the Patna High Court
Case No : CWJC No. 6072 of 2005

The Union of India and Others

APPELLANT

Vs

Arvind Kumar and Another

RESPONDENT

Date of Decision : 30-03-2007

Acts Referred:

Citation : (2007) 3 PLJR 299

Hon'ble Judges : Narayan Roy, J;J.N. Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Heard Mrs. Anita Sinha, Learned Counsel for the appellant, and Mr. Rajendra Prasad Singh, learned senior counsel for the contesting respondent No. 1. This writ application is directed against the order passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter to be referred to as "CAT") passed in O.A. No. 944 of 2002 dated 25.1.2005 allowing the prayer of the applicant respondent No. 1.

2. It appears that the petitioner along with others were candidates for the examination of Staff Selection Commission and pursuant to the advertisement they had applied. The petitioner appeared in the examination. However, before publication of the result a show-cause notice was given to him and similarly situated seven persons to show-cause as to why their candidatures should not be cancelled as they had indulged in adopting unfair means in answering the question papers Upon receipt of the show-cause filed by the applicant respondent No. 1 and others a decision was taken by the authorities to cancel their candidatures and also debarred them for a period of three years with effect from 2001.

3. Mrs. Anita Sinha, Learned Counsel for the petitioner, submitted that the authorities having been satisfied that respondent No. 1 and seven other candidates since had indulged in use of unfair means, can celled their

candidatures and debarred them for three years after giving them sufficient opportunities to explain their conduct Mrs. Sinha, Learned Counsel for the petitioner submitted that the authorities on full consideration of the materials brought before them and after perusal of the answer sheets of respondent No. 1 and other seven candidates came to the conclusion that the answer-sheets were tallying with each other giving them reasonable apprehension that unfair means was used at as time at a centre at Patna and, in that view of the matter, learned CAT was wholly unjustified in allowing the prayer of respondent No. 1.

4. Mr. Rajendra Prasad Singh, learned senior counsel for respondent No. 1, or the contrary, submitted that the CAT had occasion to see the answer-sheets of respondent No. 1 and other candidates and the CAT on consideration of the materials recorded a finding that respondent No. 1 had not attempted his question in seriatim like other seven persons, and, therefore, his candidature was not liable to be cancelled. It is further submitted that the authorities without proper application of mind cancelled the candidature of respondent No. 1, and, therefore, the order impugned passed by the CAT, in no manner, should be interfered with.

5. We have pursued the order impugned. It appears that the CAT had occasion to see the answer-sheets of respondent No. 1 and seven others and on perusal of the same, the CAT recorded a categorical finding that the applicant, Arvind Kumar, had not attempted the questions in seriatim nor the question papers answered by seven other persons were tallying with his answer-sheets, and, therefore, it was held that no case was made out for use of unfair means, so far applicant Arvind Kumar was concerned. this Court had also directed Learned Counsel for the petitioner to produce the answer-sheets and show-cause notice and its reply.

6. The called for documents however, have been produced before us for our perusal. To us, it also appears that the answer-sheet of respondent No. 1 does not tally in its entirety with the answer-sheets of seven other persons. The findings, thus, recorded by the CAT, in no manner, can be said to be otherwise bad in law or on facts. The CAT, however, by way of abundant precaution allowed the application of the applicant, Arvind Kumar, and directed that this order will not be treated as precedent and the same would be applicable only in the case of the applicant.

7. In the given facts and circumstances of the case and for the reasons aforementioned, we do not find any infirmity in the order impugned nor the approach of the CAT can be said to be otherwise bad.

8. In the result, this application is dismissed. Let the records produced be returned back.