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Krishan Kumar vs.union of India & Ors

Krishan Kumar vs.union of India & Ors

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Court : Delhi

Decided On : Oct-14-2019

Appellant : Krishan Kumar

Respondent : Union of India & Ors

Judgement :

$~7 to 46 * IN THE HIGH COURT OF DELHI AT NEW DELHI Date of Judgment :

14. h October, 2019 .....

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..... Respondent % + + + + + + + + + + W.P.(C) 2184/2019 KRISHAN KUMAR UNION OF INDIA & ORS versus W.P.(C) 2185/2019 SHRI SHIV OM & ORS. versus UNION OF INDIA & ORS. W.P.(C) 2129/2019 RAKESH KUMAR & ORS versus UNION OF INDIA & ORS W.P.(C) 2257/2019 DEEPAK & ORS UNION OF INDIA & ORS versus versus W.P.(C) 2258/2019 SH. MAHENDRA KUMAR versus UNION OF INDIA AND ORS. W.P.(C) 2259/2019 VIJAY SINGH UNION OF INDIA & ORS W.P.(C) 2260/2019 SANJEEV KUMAR AND ORS. UNION OF INDIA AND ORS. W.P.(C) 2261/2019 SH. SAMANDER SINGH AND ORS. UNION OF INDIA AND ORS. W.P.(C) 2262/2019 SH. RAJESH MAROTI KODWATE UNION OF INDIA AND ORS. versus versus versus W.P.(C) 2184/2019 Page 1 of 13 + + + + +

+ + + + versus versus W.P.(C) 2263/2019 PARVEEN UNION OF INDIA & ORS W.P.(C) 2264/2019 RAJ SINGH AND ORS UNION OF INDIA AND ORS. W.P.(C) 2265/2019 NARENDER KUMAR & ORS UNION OF INDIA & ORS W.P.(C) 2266/2019 SH. OMKAR UNION OF INDIA AND ORS. versus versus versus versus W.P.(C) 2267/2019 SH. SUNIL DUTT UNION OF INDIA AND ORS. W.P.(C) 2268/2019 SH. RAKESH KUMAR AND ORS. UNION OF INDIA AND ORS. W.P.(C) 2269/2019 SH. SATISH KUMAR UNION OF INDIA AND ORS. W.P.(C) 2270/2019 IMRAT LAL AHIRWAR versus UNION OF INDIA & ORS versus W.P.(C) 2271/2019 MS. NIDHI NAGPAL UNION OF INDIA AND ORS. versus .....

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versus versus versus W.P.(C) 2272/2019 ASHOK KUMAR UNION OF INDIA & ORS W.P.(C) 2273/2019 SH. KRISHAN CHAND AND ORS. SECRETARY MINISTRY OF URBAN DEVELOPMENT AND ORS. W.P.(C) 2274/2019 SH.

VINOD KUMAR UNION OF INDIA AND ORS. W.P.(C) 2275/2019 SONJE PRAVEEN ASHOK versus UNION OF INDIA & ORS W.P.(C) 2276/2019 SH. BRIJ NANDAN UNION OF INDIA AND ORS. W.P.(C) 2277/2019 SH. SURENDER SINGH UNION OF INDIA AND ORS. W.P.(C) 2278/2019 SH. DINESH KUMAR UNION OF INDIA AND ORS. W.P.(C) 2279/2019 SH. TARUN BHARTI UNION OF INDIA AND ORS. versus versus versus versus .....

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W.P.(C) 2291/2019 SHRI SANDEEP KUMAR AND ORS. UNION OF INDIA AND ORS. versus .....

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W.P.(C) 2184/2019 Page 3 of 13 + + + + + + + + + versus W.P.(C) 2292/2019 DEEPAK ARORA UNION OF INDIA & ORS W.P.(C) 2302/2019 HIMANSHU SHARMA UNION OF INDIA & ORS versus versus versus W.P.(C) 2405/2019 VISHNU KUMAR UNION OF INDIA AND ORS. W.P.(C) 2422/2019 POORNIMA JAYACHANDRAN UNION OF INDIA AND ORS. W.P.(C) 2431/2019 SMT. SONIA RANI UNION OF INDIA AND ORS. W.P.(C) 2449/2019 SHRI LAKSHMAN UNION OF INDIA AND ORS. versus versus W.P.(C) 2454/2019 SATPAL SINGH UNION OF INDIA & ORS versus W.P.(C) 2156/2019 PAWAN UNION OF INDIA & ORS versus W.P.(C) 2183/2019 SATISH CHAND UNION OF INDIA & ORS versus .....

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W.P.(C) 2184/2019 Page 4 of 13 W.P.(C) 2243/2019 MANOJ SATIJA UNION OF INDIA & ORS versus .....

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W.P.(C) 2297/2019 SHRI RAKESH UNION OF INDIA AND ORS. versus W.P.(C) 2298/2019 SHRI NARENDER KUMAR-II UNION OF INDIA AND ORS. versus W.P.(C) 2338/2019 ASHMI BABY versus UNION OF INDIA & ORS. + + + + Present : Mr. Shankar Diuate, Advocate for applicant/petitioner in CM APPLs 2405/2019, 2422/2019 & 2431/2019 in all items. Mr. J.P. Sengh, Sr. Advocate with Mr. R.L. Sinha, Mr. Shashi Pratap & Ms. Vapika Malik, Advocates for petitioner in item No.8. Mr. Nidhesh Gupta, Sr. Advocate with Mr. S.K. Gupta, Advocate for petitioner in item No.9. Mr. A.K. Bansal, Director with Mr. N.K. Joshi, Dy. Director, Dte. of Printing, Mr. R.K. Dutta, AM (T), GIP & Mr. Shiv Kumar, U.D.C., GIP, Minto Road. Mr. Arun Bhardwaj, CGSC with Mr. Kavindra Gill, Advocate for respondents in items No.7 & 9. Mr. Gaurang Kanth, CGSC with Ms. Eshita Baruah, Mr. Aman Bakshi & Mr. Amit Dogra, Advocates for respondents in item No.8. Mr. P.S. Singh, Sr. Panel Counsel for UOI in items No.10, 12, 16, 18, 19, 21, 22, 24 & 30. Mr. Manjit Singh, Advocate for petitioners in items No.33, 34, 35, 39, 40, 41, 42, 43, 44 & 45. Mr. Vikrant N. Goyal with Ms. Deepali Sharma, Advocates for R-1 to R-3 in items No.15, 20, 25, 27, 29 & 31. Mr. Rajesh Kumar & Ms. Santwana, Advocate for respondents in items No.11, 13, 14, 17, 18, 23, 28, 32, 36, 37 & 38. Ms. Amrita Prakash, CGSC for UOI with Mr. Hari Shankar Sharma & Mr. Kushal Agrawal, Advocates for R-1 to R-3 in item No.41. Ms. Sunieta Ojha, Advocate for UOI in items No.42, 43 & 45. Ms. Mrinalini Sen & Ms. Kritika Gupta, Advocates for respondents in item No.44. W.P.(C) 2184/2019 Page 5 of 13 CORAM: Ms. Resmitha R. Chandran & Mr. Biju Joseph, Advocates for petitioner in item No.46. HON'BLE MR. JUSTICE G.S.SISTANI HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI G.S. SISTANI, J.

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s in this batch of writ petitions are aggrieved by a common order dated 21.02.2019 passed by the learned Central Administrative Tribunal (Tribunal).

2. For disposal of this batch of writ petitions, the facts of the case of W.P. (C) 2129/2019 are being noticed for the sake of convenience.

3. The brief facts according to W.P. (C) 2129/2019 are that an advertisement was published between 3rd and 9th November, 2007 in the Employment News for various vacancies for various posts including the post of Offset Machine Operator. The petitioners applied for the same claiming to fulfil the requisite qualifications and experience.

4. On 19.12.2007, by a separate memorandum, petitioners were called to participate in the test and interview. On 14.01.2008, offers of appointment were received by the petitioners for the posts of Offset Machine Attendant. In the letter of offer of appointment, the period of probation was fixed as 2 years. The petitioners also claim that during the period of probation, they were rated as good or very good. However, they were shocked to receive a notice of termination dated 23.08.2018, whereby the petitioners were informed that since complaints of large-scale irregularities in the recruitment process were received, the Additional Secretary and Chief Vigilance Officer (CVO) of the Ministry was entrusted to investigate the complaints; and in the W.P.(C) 2184/2019 Page 6 of 13 investigation, irregularities in the recruitment process were found as per the report of the Additional Secretary and CVO. Accordingly, invoking Rule 5(1) of the CCS (TS) Rules, 1965, notice of one month was issued to the petitioners for termination of their services.

5. Thereupon, the petitioners filed O.As. before the Tribunal; and while issuing notice in the O.As. so filed, the impugned termination orders were stayed; which O.As. have however been dismissed by the impugned order.

6. It is the stand of the learned Senior Counsels appearing for the petitioners that during the pendency of the O.As., a specific direction was issued to the respondents to produce a signed copy of the Additional Secretary & CVOs report. It is urged before us that despite orders dated 4th and 6th December, 2018, a

signed copy of the report was not produced. Although, it is clarified that a true copy of the report was produced claiming the same to be a certified copy, but not even a photocopy of the signed copy was ever produced.

7. The grievance of the learned counsels appearing for the petitioners is that the Tribunal has failed to take into consideration the submissions made by the counsel appearing for the applicants, on the merits of the matter. The Tribunal has simply dismissed all the O.As. for the purported reason that the Tribunal had dealt similarly with a matter arising out of an O.A. filed by the employees of Govt. of India Presses, Aligarh and Nilokheri, which order was upheld by the High Court and the SLPs thereafter were also dismissed by the Supreme Court of India. In the Tribunals view, the petitioners O.As. were similar to the matter dealt with earlier. W.P.(C) 2184/2019 Page 7 of 13 8. Per contra, learned counsel for the respondents submits that a perusal of the report would leave no room for doubt that there were large scale irregularities in the recruitment process; and the Additional Secretary and CVO of the Ministry was entrusted to investigate and submit a report on such irregularities. The complaints were taken into consideration; material was examined; and accordingly a report was furnished. Thus, learned counsel for the respondents submits that there is no infirmity or illegality in the order dated 21.02.2019 passed by the Tribunal, which would require interference by way of the present proceeding.

9. We have heard learned counsels for the parties. The Tribunal has placed strong reliance on the observations made by the Tribunal in the judgment passed in batch matters with the lead matter titled Manjit Sharma and others Vs. Union of India, O.A. No.1554/2012. In paras 7, 8 and 9 of the impugned order, the Tribunal has extensively quoted from the judgment rendered in Manjit Sharma (supra). In para 10 of the impugned order, the Tribunal has agreed with the submissions of learned counsel for the respondents that the only difference in respect of the investigation report of Aligarh and Nilokheri Presses was that the said reports were of the year 2010 and the report in respect of the Faridabad Press (subject matter of the present writ petitions) was submitted in the year 2015. Thereafter a portion of the report has been quoted. No doubt, the Tribunal in para 13 has noted the submissions made by learned counsel for the petitioners, that the investigation

reports in respect of Aligarh, Nilokheri and Faridabad Presses are different and hence a common judgment in the earlier matter i.e. W.P.(C) 2184/2019 Page 8 of 13 Manjit Sharma (supra) would not apply to the present batch of matters, however, this submission has been rejected by the Tribunal.

10. Mr. Gupta and Mr. J.P. Sengh, learned Senior Counsel appearing for the petitioners have submitted that in fact no opportunity was granted by the Tribunal to enable the counsel to point-out the differences between these three reports. It is pointed-out that although the examinations for the Nilokheri Press were held between 2007 and 2008 which is the same period as that of Aligarh and Faridabad, however, there were different tests, different advertisements, different bodies, a different selection process and different reports by different persons. Additionally, it is submitted before us that the main reason for scrapping the examinations pertaining to the Nilokheri and Aligarh Presses was that the selection committee was changed during the selection process viz. different members participated in the earlier selection process; different members participated in the final round of selection; and the final committee members therefore marked persons who were never examined by them.

11. Reliance is placed by learned Senior Counsel appearing for the petitioners on clause 5.4.2.(i) of the investigation report, extracted at page 268 of the paper book, which reads as under : 5.4.2. Specific instances of alleged irregularities :-

"(i) In the final selection list displayed on the Notice Board on 31.03.2008 lot of manipulation from first phase of group D interview have been noticed. The minutes did not bear the signatures of two members of Old Selection Board. No marks were given to any candidate on which the changed Board could have taken the right decision for selection. W.P.(C) 2184/2019 Page 9 of 13 12. Reliance is also placed by learned Senior Counsel appearing for the petitioners on 5.4.4 Findings, which reads as under : 5.4.4 Findings :-

"The candidates appeared for interviews in respect of Labourers category in two spells, first on 22, 23 & 24 February and second on 28th and 30th March, 2008. Neither a marking sheet nor signed recommendations by Members of the DPC which conducted the interviews from 22nd to 24th February 2008 were available.

Subsequently composition of the Committee was changed by replacing two members which later conducted the interviews on 28th and 30th March, 2008. However; the final list of the selected candidates was prepared after the conclusion of the interviews in the second spell without a marking sheet or signed the Committee which conducted the interviews in the first spell. It is not clear on what basis the Members of the Recruitment Board who have put their signatures on the final list of selected candidates have done so. Based on the above facts it can be concluded that the allegation of irregularities having been committed in respect of finalization of minutes of the meeting of the Recruitment Board for selection of LABOURER category of candidates is true and the Members of the Recruitment Board who signed the Minutes of Meeting should be held responsible for that. recommendations by 13. The learned Senior Counsel submit that today the short question which would arise for consideration is not on the merit of the matters but whether fair opportunity of hearing was afforded by the Tribunal to enable the petitioners to state their case; and whether the Tribunal was right in dismissing the O.As. solely on the ground of two earlier reports, which, according to the petitioners, are materially different.

14. Having regard to the submissions so made, more particularly the points of difference which we have noticed in the afore-going paras, we are of the view that the earlier reports cannot be conclusive and W.P.(C) 2184/2019 Page 10 of 13 would not be binding with respect to subsequent examination conducted for a different printing press and the subsequent report would have to stand on its own legs even if, as has been urged by the counsel appearing for the respondents, the irregularities are somewhat similar and the examinations were also held in the same time period.

15. For the reasons stated above, we deem it appropriate to remand all these matters back to the Tribunal for fresh hearing so that the objections pertaining to the report of examination held for the posts at Faridabad Press is examined objectively on its own merits. Considering the submission made by the counsel for the respondents that the allegations are very serious in nature, despite the Tribunals heavy cause list, we request the Tribunal to take an early decision in the matter. The Tribunal will notice the submissions of the counsels for the parties and

thereafter pass a reasoned order.

16. We make it clear that we have not expressed any opinion on the merits of the matter.

17. Interim order dated 06.03.2019 passed in W.P. (C) 2129/2019 and other connected matters shall continue till the matters are taken-up by the Tribunal.

18. We reiterate that no special equity will flow in favour of the petitioners in view of the order passed either at the first stage before the Tribunal or by this court.

19. Parties to appear before the Tribunal on 05.11.2019.

20. With these observations, the writ petitions stand disposed of. C.M. No.10251/2019 in W.P.(C) No.2184/2019 C.M. No.10271/2019 in W.P.(C) No.2185/2019 W.P.(C) 2184/2019 Page 11 of 13 C.M. Nos.9972/2019, 10454/2019 & 45006/2019 in W.P.(C) No.2129/2019 C.M. No.10587/2019 in W.P.(C) No.2257/2019 C.M. No.10590/2019 in W.P.(C) No.2258/2019 C.M. No.10593/2019 in W.P.(C) No.2259/2019 C.M. No.10596/2019 in W.P.(C) No.2260/2019 C.M. No.10599/2019 in W.P.(C) No.2261/2019 C.M. No.10602/2019 in W.P.(C) No.2262/2019 C.M. No.10606/2019 in W.P.(C) No.2263/2019 C.M. No.10609/2019 in W.P.(C) No.2264/2019 C.M. No.10612/2019 in W.P.(C) No.2265/2019 C.M. No.10615/2019 in W.P.(C) No.2266/2019 C.M. No.10618/2019 in W.P.(C) No.2267/2019 C.M. No.10621/2019 in W.P.(C) No.2268/2019 C.M. No.10624/2019 in W.P.(C) No.2269/2019 C.M. No.10628/2019 in W.P.(C) No.2270/2019 C.M. No.10631/2019 in W.P.(C) No.2271/2019 C.M. No.10634/2019 in W.P.(C) No.2272/2019 C.M. No.10637/2019 in W.P.(C) No.2273/2019 C.M. No.10640/2019 in W.P.(C) No.2274/2019 C.M. No.10643/2019 in W.P.(C) No.2275/2019 C.M. No.10645/2019 in W.P.(C) No.2276/2019 C.M. No.10648/2019 in W.P.(C) No.2277/2019 C.M. No.10651/2019 in W.P.(C) No.2278/2019 C.M. No.10654/2019 in W.P.(C) No.2279/2019 C.M. No.10675/2019 in W.P.(C) No.2291/2019 C.M. No.10678/2019 in W.P.(C) No.2292/2019 C.M. No.10727/2019 in W.P.(C) No.2302/2019 C.M. No.11212/2019 in W.P.(C) No.2405/2019 C.M. No.11298/2019 in W.P.(C)

No.2422/2019 C.M. No.11315/2019 in W.P.(C) No.2431/2019 C.M. No.11418/2019 in W.P.(C) No.2449/2019 C.M. No.11433/2019 in W.P.(C) No.2454/2019 C.M. No.10131/2019 in W.P.(C) No.2156/2019 C.M. No.10249/2019 in W.P.(C) No.2183/2019 W.P.(C) 2184/2019 Page 12 of 13 C.M. No.10526/2019 in W.P.(C) No.2243/2019 C.M. No.10698/2019 in W.P.(C) No.2297/2019 C.M. No.10701/2019 in W.P.(C) No.2298/2019 21. In view of the order passed in the writ petitions, all these applications stand disposed of. G.S. SISTANI, J ANUP JAIRAM BHAMBHANI, J OCTOBER14 2019/ck W.P.(C) 2184/2019 Page 13 of 13

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