

Sunil Dutt Vs. Staff Selection Commission

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Court : Delhi

Decided On : Feb-07-2002

Reported in : 96(2002)DLT900; 2002(6)SLR383

Judge : S.B. Sinha, C.J. and; A.K. Sikri, J.

Acts : [Constitution of India](#) - Articles 226 and 323A

Appeal No. : CW 7829/2000

Appellant : Sunil Dutt

Respondent : Staff Selection Commission

Advocate for Def. : R.V. Sinha, Adv.

Advocate for Pet/Ap. : G.D. Gupta, Adv

Disposition : Petition dismissed

Judgement :

S.B. Sinha, C.J.

1. This writ petition is directed against a judgment dated 14th February 2000 passed by Central Administrative Tribunal in OA No. 1220/95 whereby and whereunder the Original Application filed by the petitioner herein has been dismissed.

2. The basic fact of the matter is not in dispute.

3. The Staff Selection Commission issued a Recruitment Notification on or about 5th November 1994 stating that a combined competitive examination would be held for posts inviting applications in respect of Sub-Inspector (Excise and Delhi Police) and certain other categories Clause, 14(iv) and 20 of the said Notification read thus:

'14. A candidate who is or has been declared by the Commission to be guilty of:-

(iv) submitting fabricated documents or documents which have been tampered with, or'

'20. Selection of Candidates:

(a) Posts of Sub-Inspectors (Executive) in Delhi Police:

After the examination, in so far as vacancies other than those reserved for departmental candidates are concerned, candidates who have qualified in physical endurance tests and who satisfy the physical measurements requirements will be arranged in order of merit as disclosed by aggregate marks finally awarded to each candidate at the examination (Papers I and III of written examination, and Personality Test carrying a maximum of 100 marks taken together) and in that order as many candidates as are found by the Commission to be qualified shall be recommended for appointment up to the number of unreserved vacancies in those posts decided to be filled on the results of the examination.

In so far as vacancies reserved for 'departmental candidates' enlisted in Delhi Police are concerned, departmental candidates who have qualified in the physical endurance tests and who satisfy the physical measurement requirements will be arranged in order of merit as disclosed by aggregate marks finally awarded to each such candidate at the examination (Papers I and III of Written Examination and Personality Test taken together) and in that order as many 'departmental candidates' as are found by the Commission to be qualified shall be recommended for appointment up to the number of vacancies reserved for them and decided to be filled on the results of the examination.

The inter-seniority of directly recruited Sub- Inspectors (Ex) in Delhi Police shall be fixed on the basis of total of marks obtained by them in the Staff Selection Commission Examination/Interview as well as in the final examination held at Police Training School/College.

(b) Post of Sub-Inspector of Police in C.B.I. and Central Police Organisation:-

After the examination, the Commission will, in so far as vacancies in these 2 categories of posts are concerned, draw up separate lists for CBI, CRPF, BSF, CISF and ITBP in order of merit as disclosed by the aggregate marks (Paper I and III of Written Examination and Personality Test, 100 marks for CBI, and 100 marks for C.P.O. taken together) finally awarded to each candidate and in that order so many candidates as are found by the Commission to be qualified in the examination shall be recommended for appointment up to the number of un-reserved vacancies in these posts. The selection for these posts shall be made on all-India basis.

NOTE: Having regard to his rank in the order of merit, due consideration shall be given as far as feasible to his preference indicated by him in Col. 11 of his application form, at the time of declaration of result. He will not be considered at all for those post, for which no preference has been indicated in the application form.

(c) Applicable for all categories of posts:

Provided that the SC, ST & OBC candidates who are selected on their own merit without relaxed standards Along with candidates belonging to other communities, will not be adjusted against the reserved share of vacancies. The reserved vacancies will be filled up separately from amongst the eligible Scheduled Caste and Scheduled Tribe and Other Backward Classes candidates which will thus compose Scheduled Caste and Scheduled Tribe candidates who are lower in merit than the last candidate on the merit list of unreserved category but otherwise found suitable for appointment even by relaxed standards, if necessary.

Provided that candidates belonging to Ex-servicemen may, to that extent the number of vacancies reserved for them cannot be filled on the basis of general

standards be recommended at relaxed standards to make up for the deficiency in the reserved quota subject to fitness of such candidates for selection irrespective of their ranks in the order of merit.'

4. It is provided that a candidate shall submit one application only and multiple application shall be rejected as under applicable in Note 3 under para 23 of the Notice which reads thus:

Note 3: 'A candidate should submit one application only, and that infringement of this instruction would invite penal action by the Commission.'

5. Admittedly, the petitioner herein sent two applications in the prescribed form. His contention, however, was that while he was going to post the said application form, somehow it got lost on the way whereupon he sent another application. According to him perhaps someone who had come across the said envelope, had dropped the same in the post box. He received two admit cards, in one of the Roll Numbers, the Centre for written test was mentioned as a government school in Raja Garden while in the other, the Centre mentioned was a government school in Gole Market. The petitioner went to the office of the Commission with aforementioned roll numbers and met the Regional Director whereupon he was allowed to take his examination in the examination hall in the office of the Staff Selection Commission, Block No. 12, CGO Complex upon scoring out the name of the school in Raja Garden in the Admit Card.

6. The petitioner, however, was served with a notice on or about 30th June 1994 which is in the following terms:

'MEMORANDUM

Sub: RECR. OF SUB-INSP. IN DELHI POLICE, CBI & CPOS EXAM. 1994

It has come to the notice of the Commission that Shri. Sunil Dutt S/o Sh. Shiv Charan has submitted more than one application in his own name for the above mentioned examination. The said applications have been assigned Roll Nos. 1230316 & 1243427. He has thus committed a serious irregularity and violated the provisions of para 14(iv) of the notice of examination. He is also guilty of giving

wrong declaration in his application form to the effect: 'I have not submitted any other application for this examination.' The Commission has taken a serious view of this irregularity of the candidate and it proposes to cancel his candidature for the Sub-Inspectors in Delhi Police, CBI & CPOs Examination 1994. He is directed to explain within 7 days from the date of issue of this letter as to why action should not be taken against him by the Commission as proposed. If no satisfactory reply/explanation is received from him by 8th July 1994, his candidature for the above mentioned Examination shall stand cancelled without any further intimation to him.

Sd/-

(I.S. Thakur)

Under Secretary (NR)'

7. In reply to the said Memorandum, the petitioner pointed out the above-mentioned fact.

8. The written test was held on 3rd July 1994 wherein the petitioner was allowed to participate on provisional basis. On that date, the written test was held on the first and second papers only. The petitioner did not receive any Roll Number for the purpose of appearing in the examination for the third paper whereupon, he went to the office of the Commission and met the Regional Director. On a request made by him he was allowed to appear in the said examination. According to the petitioner, despite being declared successful, he was not called to appear in the physical test and interview.

9. In the said situation, the petitioner filed the above-mentioned Original Application.

10. The respondents, in their counter-affidavit, inter alia, contended that as the petitioner had acted in contravention of the afore-mentioned Note 3 appended to para 23 of the Notice, a Show Cause Notice was issued to him and as he failed to submit a satisfactory or plausible Explanationn, he was not found eligible to appear in the said examination.

11. The learned Tribunal, having regard to the afore-mentioned rival contentions, disbelieved the contention of the petitioner stating:

'6. This story strains our credulity and we are unable to believe it, if only for the reason that if it had indeed been true, applicant would have informed the SSC office of the misplacement of the first application form, when he went to deposit the second one.'

12. Mr. Gopal, learned counsel appearing for the petitioner would submit that the bona fides of the petitioner cannot be doubted as despite receiving two Roll Numbers, he himself volunteered to surrender one of them. The learned counsel would contend that the decision dt. 9th November 1998 of Division Bench of this court in CW 5497/97, whereupon the respondent relied, cannot be said to be applicable inasmuch as therein undue advantage was sought to be obtained by filing various applications in more than one zone. The learned counsel would contend that in that case, this court was primarily concerned with the right of a candidate to appear in the examination held in more than one zone. The learned counsel would further contend that it is not a case where any fraud had been committed or any mis-statement had been made and thus in equity, the petitioner should be held to be entitled to appear at the written test. Strong reliance in this connection has been placed on *Shri. Krishan v. The Kurukshetra University, Kurukshetra*, (1976) 2 SCR 722.

13. The learned counsel appearing for the respondents, on the other hand, would submit that keeping in view the facts and circumstances of this case, no case has been made out for exercising the power of judicial review by this court in terms of the decision of the Apex Court in *L. Chandra Kumar v. Union of India and Ors.* : [1997]228ITR725(SC) .

14. This court although has power of judicial review over the decision of the Tribunal constituted under Article 323A of the [Constitution of India](#), but the same, it is trite, is limited.

15. This court can exercise its power of judicial review only in the event any illegality, irrationality or procedural impropriety is found in the decision making

process. While exercising the power of judicial review, this court is not concerned with the merit of the decision.

16. The petitioner, in this case, in our considered opinion, has failed to show existence of any illegality, irrationality or procedural impropriety in the order passed by the Central Administrative Tribunal.

17. It is not in dispute that the petitioner had filed two separate applications in response to the advertisement of the Respondent which was in contravention of the afore-mentioned Noted 3.

18. Can it, in the afore-mentioned situation, be said that the respondents acted illegality or without jurisdiction in refuting the contention of the petitioner to the effect that some good man had posted the letter which he had lost on his way to the post office?

19. If such a story has not been given any credence by the respondents the same by itself cannot be said to be irrational in the sense that such a decision could not have been taken by any reasonable man whatsoever. The story of the petitioner had not been believed by the learned Tribunal also.

20. In a case of this nature, where not only the respondents but also the Tribunal at the first instance had refused to give any credence to the story of posting of two applications by the petitioner in contravention of the notification we are of the opinion that it cannot be said to be a case where interference by way of judicial review is warranted.

21. By reason of his action, the petitioner might not have derived any benefit but once the story put forward by him is disbelieved by the competent authority, he must be held to have acted in contravention of the Recruitment Notification. No illegality can, therefore, be said to have been committed by the respondents in passing the order impugned before the learned Tribunal.

22. Furthermore, the test was held in 1994. Much water must have flown down the Yamuna in the meanwhile and all appointments must have been made. At this stage, in our opinion, it may not be prudent for this court to exercise its jurisdiction

under Article 226 of the [Constitution of India](#) which may unsettle the settled state of affairs.

23. The decision of the Supreme Court in Shri. Krishan v. The Kurukshetra University, Kurukshetra (supra), has no application in the facts of this case. Therein, the candidate was permitted to appear at the examination. In the instant case, the petitioner had been allowed to appear at the examination on a provisional basis. A show cause notice had already been issued to him even prior to his taking part in the examination. In that view of the matter, we are of the opinion that no case is made out for the interference with the impugned judgment. This writ petition is, therefore, dismissed. However, in the facts and circumstances of the case, there will not be any order as to cost.

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