

**(2006) 09 AHC CK 0248**

**Allahabad High Court (Lucknow Bench)**

**Case No:** Writ Petition No. 5372 (S/S) of 2000

Ajay Kumar and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

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**Date of Decision:** Sept. 4, 2006

**Citation:** (2006) 7 AWC 7384

**Hon'ble Judges:** Narayan Shukla, J

**Bench:** Single Bench

**Advocate:** Ravi Singh, Kapil Deo and Ashwani Kumar, for the Appellant; C.S.C., for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

@JUDGMENTTAG-ORDER

Narayan Shukla, J.

Heard Mr. Kapil Dev, senior advocate assisted by Mr. Ashwani Kumar, learned Counsel for the Petitioners and the learned standing counsel for the Respondents.

2. By means of the present writ petition the Petitioners have prayed for a writ of certiorari quashing the impugned orders dated 25.11.2000, 4.1.2001 and 24.4.2001 as contained in Annexures-5, 6 and 8 to this writ petition. They have further prayed for a writ of mandamus commanding the opposite parties not to interfere with the select list and to issue appointment orders to the Petitioners for the post of Data Entry Operator as per select list contained in Annexure-1 to this writ petition.

3. In pursuance of advertisement dated 10.8.1998 for filling up 52 vacancies for the post of Data Entry Operators in Agriculture Statistics and Cooperative Insurance Department, the Petitioners applied for the same and were declared successful. Select list was prepared and published on 7.10.1999, but no appointment orders have been issued to the Petitioners so far.

4. In the counter-affidavit filed by the Respondents it is alleged that several complaints were received against the aforesaid selection, of which an enquiry was conducted and it was recommended that the result of the interview of all the candidates should be cancelled vide Government orders dated 25.11.2000 and in its amendment dated 4.1.2001. It was further mentioned that the names of those persons against whom it has been mentioned by the Selection Committee that they do not know the operation of computers, be deleted from the list of successful candidates of written examination. For rest of the candidates computer test has to be taken and therefore on the basis of the interview fresh result of selected candidates is to be declared, which has not been done so far.

5. Through the supplementary counter-affidavit an enquiry report has been submitted by the Respondents, through which it has been reported that in the select list the names of seven candidates had not been included those were S/Shri Sandeep Kumar Arora, Manoj Kumar Mishra, Jitendra Mishra, Vipin Kumar, Som Pandey, Sunil Kumar Verma and Om Prakash, however, they have obtained more marks than the selected candidates. The details of marks have also been discussed in the enquiry report. However, it has further been submitted through the report that the eligibility of the candidates had to be adjudicated on the date of interview accordingly.

6. In light of the aforesaid merit the learned standing counsel has submitted that it has rightly been decided that the Computer test of those candidates who have passed the written examination be taken and their eligibility including the documents produced by them be also assessed. He further submits that a candidate who finds place in the select list as a candidate selected for appointment does not acquire an indefeasible right to be appointed in the absence of any specific rule entitling him to such appointment. In support of his contention he has relied upon some decisions of Hon"ble Supreme Court, which are referred to hereunder:

1. Shankarsan Dash Vs. Union of India,
2. Union Territory of Chandigarh Vs. Dilbagh Singh and others,
3. Jatinder Kumar and Ors. v. State of Punjab and Ors. (1995) 1 SCC 122 ; and
4. Bihar Public Service Commission and another Vs. State of Bihar and others,

7. The ratio of all the judgments is that a candidate finds place in the select list has no indefeasible right to be appointed.

8. In light of the aforesaid decisions the learned standing counsel submits that the Petitioners have no right at all for appointment and the writ petition deserves to be dismissed.

9. After hearing the learned Counsel for the parties and perusal of the record I find that a decision has been taken to cancel the proceeding of interview as well as the

select list of the candidates, according to the Selection Committee, who have no knowledge of Computer, I am of the view that since the eligibility as required through advertisement has to be fulfilled by the candidates on the last date of submission of the application itself, according to which their eligibility had to be verified and according to the enquiry report it is obvious that irregularities have been committed in the proceedings of selection, I am not inclined to interfere in the matter, however, it is provided that if fresh selection either it is written or interview or the examination for the knowledge of Computer takes place in regard to the selection in question, the Petitioners shall be allowed to participate alongwith others.

10. With the aforesaid observations and directions the writ petition is disposed of finally.