

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

ORIGINAL APPLICATION NO. 180/00595 of 2019

Monday, this the 2nd day of March, 2020

CORAM

Hon'ble Mr.Ashish Kalia, Judicial Member

Safeer Karim
S/o. K.A.Kareem, aged 31 years,
Residing at Kollom Parambil House,
Kunnukara, Alwaye,
Ernakulam-683 524, Kerala State.

... Applicant

(By Advocate Mr.S.M.Prasanth)

Versus

1. The Union Public Service Commission,
Dholpur House,
Shajahan Road,
New Delhi-110 069 Represented by its Under Secretary

..... Respondent

(By Advocate, Mr.Thomas Mathew Nellimoottil, SPCCG)

This application having been heard on 2nd March 2020, the Tribunal on

02.03.2020. delivered the following :

O R D E R(ORAL)

HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER

This matter was heard at length.

2. The applicant was caught redhanded by the Frisking Security Officers as he was found in possession of Mobile Phone with Blue Tooth and some typed notes as claimed by the respondents. The applicant has submitted that he has not violated any of the guidelines/Rules of appearing in the examination as he has not even entered in the Examination Hall. He has been frisked at the gate itself. He has drawn my attention to the R-4 Annexure 7(a) & (b) where it is stated under the rules that the banned items including Mobile Phone/Pager are banned to the venue of the examination as arrangements for safe keeping cannot be assured. He has tried to impress this Tribunal by saying that in order to keep in safe custody, he was carrying the above mentioned items, himself.

3. Whereas, some contrary statements are recorded by the Headmistress of the School where exam was being conducted , in the FIR. It is reflected that he has admitted to the extent that he was carrying Mobile Phone at 8.50AM whereas respondents claims it was 8.55AM. Respondents further contended that, one Ms.Pushpa has disposed before police officials the he has admitted that he was

carrying the Mobile Phone in order to talk to his wife who is away in Hyderabad.

4. As it was then established that the applicant had infringed the Rule 14 of Civil Services Examination Rule, 2017 by having possession of incriminating objects during the examination, the applicant was arrested and later released on bail on 23.11.2017 but was debarred from appearing in UPSC Examinations and Selections for a period of ten years with effect from 22.11.2017, as submitted by Mr.Thomas Mathew Nellimoottil, learned Standing Counsel for UPSC. Now, the applicant wishes to re-appear again in the current examination as he is going to become over-age for the further examination and seeks permission of the Tribunal on the following grounds:

(i) Rule of natural justice has not been observed. No body should be condemned unheard.

(ii) He has not been heard by the concerned authorities and an Order has been passed by the UPSC unilaterally, which is not admitted by the other side.

5. Be that as it may, there is hardly any issue if applicant be allowed to present his application duly filled alongwith payment of fee etc. But, this will not give applicant any right to appear in the examination during the currency of the punishment so awarded. This Tribunal only gives a direction to the respondents to give a hearing to the applicant and also an opportunity to present his case. Respondents are directed to issue appropriate order thereafter within a period of 45 days.

6. With this observation, OA is disposed of, with liberty to the Applicant to avail

remedies in accordance with Law. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

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List of Annexures

Annexure A1 - True copy of the Show cause notice F.No.CSM/Roll No.655345/2017-E.IV dated 31.10.2017 issued to the applicant by the respondent.

Annexure A2 - True copy of the Order F.No.CSM/Roll No.655345/2017-E.IV dated 23.11.2017 issued to the applicant by the respondent.

Annexure R1 - A true copy of the aforesaid report dated 30.10.2017.

Annexure R2 - A true copy of the complaint/FIR.

Annexure R3 - A true copy of the said Important Instruction provided with e-Admit Card to the candidates of CS(M)E 2017.

Annexure R4 - A true copy of the Examination Notice No.06/2017-CSP dated 22.02.2017.

Annexure R5 - A true copy of the e-admit card.

Annexure R6 - A true copy of the said Gazette of India Extraordinary Part I-Section 1 dated 22.02.2017.

Annexure R7 - A true copy of the e-mail/letter cancelling the candidature of the applicant and Show Cause Notice dated 31.10.2017.

Annexure R8 - A true copy of the speed post tracking the delivery of the letter.

Annexure R9 - A true copy of the debarment order issued to the applicant on 23.11.2017.

Annexure R10 - A true copy of the Appeal filed by the applicant against the disqualification and debarment.

Annexure R11 - A true copy of the reply of the UPSC dated 12.10.2018.

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