

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A. No. 1177/99

New Delhi: this the 27th day of May, 1999.

HON'BLE MR. S. R. ADIGE VICE CHAIRMAN (A).

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J).

A. V. Prema Nath,
119-F, Hostel Block,
Directorate of Training,
UTCS, Viswas Nagar,
Delhi - 32

..... Applicant.

(Applicant in person).

Versus

Secretary,
Union Public Service Commission,
Dholpur House,
New Delhi.

..... Respondents.

(By Advocate: Shri K. R. Sachdeva)

ORDER

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Applicant impugns respondent's letter dated 14.5.99 denying his request for Scribe to appear in CSE, 1999 scheduled to be held on 30.5.99, and prays for a direction to respondent (UPSC) to provide him Scribe.

2. A prayer seeking the same relief as an interim measure in view of the pending exam. has also been sought.

3. The OA came up on 21.5.99 on which date after applicant giving a preliminary hearing, notice was issued to respondent (UPSC) by Special Messenger to appear and to file their reply by 26.5.99 positively. Meanwhile Shri K. R. Sachdeva who represents UPSC and was present in the Court, was called upon to seek instructions from Respondent and be available on 26.5.99.

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4. Applicant argued his case in person while Shri K.R. Sachdeva was heard on behalf of respondents. In addition Shri R.K. Kapoor, Advocate was also heard on behalf of applicant as amicus curiae in respect of some legal pleas.

5. No reply has been filed by respondents. However, Shri Sachdeva has invited our attention to general instructions (Annexure-I) for the CSE(P) 1999, relevant portion of which reads as under:

"Candidates must write the papers in their own hand. In no circumstances will they be allowed the help of a scribe to write the answers for them. However, blind candidates will be allowed to write the examination with the help of a scribe."

These instructions further lay down the eligibility conditions in which a Scribe will be permitted in case of blind candidate.

6. Shri Sachdeva states that denial of Scribe to the applicant is in accordance with rule and there is no violation of rules. No direction to provide Scribe to applicant is judicially warranted. In this connection, Shri Sachdeva states that in the absence of any challenge to these rules, the interim relief prayed for by the applicant cannot be granted. Learned counsel Shri Kapoor has submitted that on this ground alone the interim relief may not be denied to the applicant, and meanwhile he may be given short adjournment to amend the OA suitably to impugn these rules. Applicant has invited our attention (Annexure-2) to his representation dated 30.4.99 addressed to respondent, where he has pointed out that he lost his both hands below elbow and required the help

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of a Scribe to write his exam. As Scribes are provided to blind candidates and others with visual impairment, he should also be given equal opportunity by providing scribe.

7.. We have observed that the applicant has indeed lost his both hands below elbow and has been fitted with artificial limbs. The aforesaid rules provide that the candidates must write the papers in their "own hand". Apparently these rules while taking into consideration the blind candidates for providing scribes, have not taken into consideration the handicapped candidates who do not have their 'own hand', as in the present case.

8.. Shri Sachdeva has pointed out that the applicant is fully aware that no Scribe would be provided to him when he filled in the application form as the same is meant only for blind candidates. He also stated that applicant did appear in earlier two CSEs and had not been allowed the assistance of scribe.

9.. We have considered the matter carefully.

10.. Respondents have yet to file reply to explain why the provision of a Scribe is limited only to blind candidates. Applicant has also sought time to file an amended OA specifically to challenge the aforesaid rules.

11.. In his averment in Annexure-3, applicant has stated that in School, College and University he has been provided assistance of Scribe.

12.. As the CSE, 1999 is scheduled to be held on 30.5.99 and there is no time for pleadings to be completed and the OA to be heard on merits, we direct the

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respondent to permit the applicant assistance of Scribe for the aforesaid examination, subject to all other conditions, and keeping his result ^{in sealed cover} till further orders. It is made clear that in the event the OA eventually fails and is dismissed, the applicant will not be entitled to derive any benefit from the result of this examination. In this connection we further direct that whatever conditions are applicable in regard to provision of ~~providing~~ ^a scribe to blind candidates with ⁷ ~~mutatis~~ ⁷ mutandis will apply to the applicant also.

13. Meanwhile respondents to file reply within 4 weeks. 2 weeks for rejoinder, if any.

14. List on 26.7.99.

15. Issue DASTI.

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(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J)

Hydgi
(S.R. ADIGE)
VICE CHAIRMAN (a).

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