

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

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O.A. No.162 of 1995

Dated New Delhi, this 7th day of February, 1995

Hon'ble Shri J. P. Sharma, Member (J)  
Hon'ble Shri B. K. Singh, Member (A)

Shri Maheshwar Dayal  
R/o House No.1800, Sector-17, Gurgaon  
HARYANA

... Applicant

By Advocate: Shri K. Venkatraman

Versus

Union Public Service Commission  
Through its Secretary  
Dholpur House  
Shahjahan Road  
NEW DELHI-11

... Respondent

By Advocate: Shri P. H. Ramchandani

JUDGEMENT

Shri B. K. Singh, M(A)

This O.A. has been filed against the order dated 22.12.94 passed by the respondent not allowing the applicant to switch over to English medium for writing answers to the question papers in compulsory subjects like English, Essay, General Studies and Optional Papers and also rejecting the representation filed by the applicant to evaluate the answer sheets of the applicant on the ground that the applicant has written his answers in English although in the relevant column he had filled Hindi as the medium along with Code 04 which implies that he would write Essay in Hindi and also that he would write the answers in case of General Studies and Optional Papers in Hindi. This is evident from the form produced by the learned counsel representing the UPSC.

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(A)

2. In column 12(a) there is a space for writing the code number and also space for writing medium for answering the questions of compulsory and optional Papers. The plea of inadvertance and oversight is not acceptable because if it was only code number, one could have given the benefit of doubt to the applicant. But writing in his own hand and in his own pen the word 'Hindi' is a clear proof that it was not due to inadvertance or oversight. He had consciously done it and his later action is only an afterthought. In case of LIC of India Vs Mrs Asha Ramchhandra Ambekar & Anr (JT 1994(2) SC 183) the Hon'ble Supreme Court has pulled up the Bombay High Court for conferring the benediction impelled by sympathetic considerations, sentiments and emotions. The Hon'ble Supreme Court has held that law is the embodiment of all wisdom and High Courts and Tribunals are expected to follow the cold logic of law and are not to be guided by their personnel feelings of compassion. The Tribunal has to be guided strictly by the rules and instructions issued from time to time and any deviation from it when the instructions are clear and unambiguous would result in distortion of facts and also rules and instructions and such deviation cannot be permitted.

3. This Tribunal is not vested with the powers of the Hon'ble Supreme Court. The Hon'ble Supreme Court has

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(5)

declared that High Courts and Tribunals have to be guided only by law. The Hon'ble Supreme Court can place justice above law but this power is not vested in the High Courts and the Tribunals. Recently, the Hon'ble Supreme Court in its equity jurisdiction has rendered complete justice in a case. In one such case recently, the Hon'ble Supreme Court declined to upset the judgement of High Court granting interest on the compensation in an accident claim from the date of accident even though the court found that under the law such interest could be granted only from the date on which the compensation had been awarded by the court concerned. This reference is to a judgement in an appeal in the case of United India Insurance Co. Ltd. Vs Narendra Pandurang Kadam & Ors delivered by a Division Bench comprising Hon'ble Mr Justice S. P. Jeevan Reddy and Hon'ble Mr Justice S. Sen. Thus, it is only the Apex Court which can place justice above law, but the same power is not vested in the Tribunal.

3. In the light of the instructions contained in the advertisement and also in the brochure, it would be difficult for this Tribunal to interfere with the orders passed by the UPSC in the case of the applicant. This O.A. thus is summarily rejected.

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(b)

4. However, while parting with this case, we leave it to the discretion of the respondent to consider whether there is any scope for reconsideration of the orders passed by them regarding non-evaluation of answer sheets written in English by the applicant.

  
(B. K. Singh)  
Member (A)

  
(J. P. Sharma)  
Member (J)

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