

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

D.A.1613/94

(7)

New Delhi, this the 25th November, 1994

Hon'ble Shri J.P. Sharma, Member(J)

Hon'ble Shri S.R. Adige, Member(A)

Shri Birender Kumar,
s/o Shri Ram Haran Mishra,
R/o Village- Janipur,
P.O. Janipur,
P.S. Narpur,
Distt. Sitamarhi, Bihar,
presently residing at
1-8, Jia Sarai, New Delhi.

... Applicant

Applicant in person

Vs.

Union of India,
through
Secretary,
Union Public Service Commission,
Dhaulpur House,
Shahjahan Road,
New Delhi.

... Respondents

By Advocate: Shri N.S. Mehta

ORDER (ORAL)

Hon'ble Shri J.P. Sharma, Member(J)

The applicant was a candidate for the Engineering Services Examination, 1994 conducted by U.P.S.C. in pursuance to an advertisement issued earlier. The applicant has filled up the application form as well as the other relevant required documents alongwith requisite examination fee which also has been acknowledged by the U.P.S.C. However, it appears that the Centre of examination which is required to be filled up in Col. 5 of the application form was left unfilled by the applicant though he has filled up the Centre in the attached annexure of attendance sheet. U.P.S.C. on scrutiny on the basis of certain guidelines as well as relying on a decision

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of the Punjab & Haryana High Court in C.W.P. No.4751/94 - Raveen Chhikara Vs. U.P.S.C. by the order dated 10.5.94 where the Centre and the was not specified in the application form/ writ petition was dismissed.

2. The applicant filed this application on 11.8.94, when he has not been issued Admit Card to the said examination and by the order dated 12.8.94 the Bench hearing the matter gave an interim order that U.P.S.C. is directed to allow the applicant to appear in the Engineering Services Examination, 1994 to be held on 14.8.94 on a purely provisional basis.

3. The relief claimed by the applicant is that the respondents be directed to allow the applicant to appear in the examination for Engineering Services and the memo issued by the U.P.S.C. (Annexure A-1) so far it relates to the applicant in the printed cyclostyled form at S.No.8 rejecting the application be quashed.

4. A notice was issued to the respondents who contested this application and opposed the grant of the relief on the ground that the instructions clearly envisages that incomplete application form shall be rejected. Since the applicant Centre has not given the choice of Centre and rather column 5 was unfilled so according to extant instructions the application was rightly rejected. The applicant has no case and the application be dismissed.

5. We heard the applicant in person and Shri N.S. Mehta, learned counsel for the respondents. The learned counsel for the respondents argued that the respondents have followed the instructions and the interpretation given to the instructions by the Punjab & Haryana High Court in the recent judgement which has also been referred to above. We have given a careful consideration to the fact that the applicant has committed to fill column 5 of the application form but at the same time he has given choice of the approved Centre in his attendance sheet. Though

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if the instructions are followed in a technical manner then the stand taken by the U.P.S.C. may to some extent said to be not incorrect. But at the same time when the choice of Centre had already been given in the attendance sheet it is not a case where the applicant has not given the place where he wants to take the examination. It may have amounted more vigilance on the part of the scrutiny staff of the U.P.S.C. Fresh graduates from the University cannot be expected to have full background of filling up the application form and sometimes in undue haste a column may be left unfilled unintentionally. It is unintentional because in the attendance sheet the applicant has already filled the choice of the Centre. He would have also filled up in the application form had he been more attentive. In the said case the technical objection should not be allowed to prevail. We have also got summoned the application form of Shri Dhananjay Kumar where the ~~candidate~~ also appeared for the same examination and failed to paste the photograph required by the Commission at the top of the application form, though he has pasted it on the attached attendance sheet. Commission in its discretion and also on the basis of instructions allowed Shri Dhananjay Kumar to take the Engineering Services Examination. In view of this, we find that the case of the applicant ought to be considered with sympathy.

6. We are also moved by the consideration that the applicant has already appeared in the Engineering Services Examination by the interim order dated 12.8.94. The respondents have genuine apprehension that if such candidates who have not filled up the required information in the application form are allowed to take the examination then those who have been disallowed by the Commission will not be treated at par.

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with such candidates who will be allowed by the judicial intervention. We do find that this argument has some force. However in this case as one time exception as the applicant has already been allowed to take the examination, consider his case favourably and this be not taken as laying down a precedent.

7. We are particularly coming to a decision on the basis of the Commission allowing Shri Dhananjay Kumar to take the examination though the application form submitted by him was incomplete. We are also moved by the fact that the applicant had already filled up the choice of Centre in the attached attendance sheet.

8. The application is therefore disposed of with the direction that provisional candidature of the applicant referred to in the interim order shall be taken as the final candidature for the Engineering Services Examination, 1994 and shall be treated as candidate who has filled up the form in the similar manner as other candidates whose application form was complete in all respect. The answer sheet etc. of the applicant shall also be marked and the result will also be declared. However, we do observe that this should not be taken as a precedent. Papers shown to us by the concerned staff of U.P.S.C. are returned. A copy of the order be sent expeditiously to the parties.

Cost on parties.

Adige
(S.R. ADIGE)
Member(A)

Sharma
(J.P. SHARMA)
Member(J)

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