

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/00150/2020

HYDERABAD, this the 30th day of September, 2020.

Hon'ble Mr. Ashish Kalia, Judl. Member

Hon'ble Mr. B.V. Sudhakar, Admn. Member



T.Venkata Siva Tej Deep,
S/o T.Siva Rama Prasad,
Gr 'C', Aged 30 years,
Occupation : Unemployee,
R/o 7/325-2A6, Bhagya Nagar Colony,
YSR Kapada, Andhra Pradesh.

...Applicant

(By Advocate: Mrs.A.Chaya Devi)

Vs.

- 1.Union of India,
Represented by its Secretary,
Ministry of Personnel, Public Grievances & Pensions,
Government of India, New Delhi.
2. Staff Selection Commission,
Government of India,
Represented by its Chairman,
Block No.12, CGO Complex,
Lodhi Road, New Delhi-110 091.
3. Staff Selection Commission,
Southern Region,
Rep by its Regional Director,
Second Floor, EVK Sampath Building,
DPI Campus, College Road,
Chennai, Tamil Nadu-600 006.

....Respondents

(By Advocate : Mrs. K. Rajitha, Sr. CGSC)

ORAL ORDER
(As per Hon'ble Mr. B.V.Sudhakar, Administrative Member)

Through Video Conferencing:



2. The OA has been filed challenging the action of the respondents in rejecting the applicant's application for the Combined Graduate Level Examination 2019.

3. Brief facts of the case are that the applicant applied for appearing in the Combined Graduate Level Examination- 2019 with 4 stages of testing namely Tier I, II, III & IV, pursuant to the notification issued by the respondents on 22.10.2019 for filling up different category of posts. Applicant, being eligible, applied on line for Group B posts as per instructions. While filling up the application on line, the applicant by mistake mentioned the Education Board as Andhra Pradesh Open School Society instead of Board of Secondary Education, Andhra Pradesh. Realizing the mistake the applicant made another application and informed the respondents about the 2nd application made. In response he was informed to await for the status report, which he got on 7.2.2020 wherein it was declared that his candidature was rejected on the ground of preferring duplicate/multiple applications. Thereafter applicant made several representations and finally he was informed that his candidature was rejected as per para 20 (h) of the notification. Aggrieved, OA is filed.

4. The contentions of the applicant are that since he is fully eligible to appear in the exam and that for a minor mistake committed due to oversight, making him ineligible is violative of Article 14 of the

Constitution. As per para 6, in part I of the application form the basic details can be changed twice after completion of the registration process. Hence the changes which are made in the basic details by way of second application can be entertained. Further applicant furnished the correct details in regard to the Board under the column Matriculation Examination details. Thus there is no dispute in regard to the genuineness of his X class certificate issued by the relevant Board. Hence it was a bonafide mistake and for the same he should not be penalised by not allowing him to appear in the exam. Besides, he has also attained the age of 30 years and that he would have no opportunity to appear in future.



5. Per contra, respondents submitted that against the notification cited, as many as 2,93,004 applications were received and 530 applications were rejected for reasons of duplicate/multiple applications, photo blurred, signature blurred etc. Among the 530 applications so rejected, 480 of the rejections come under the category of duplicate/multiple applications. The applicant made two applications one on 31.10.2019 and the other on 11.11.2019 which is not permitted as per para 20 (h) of the recruitment notice and hence, by treating such a mistake as a malpractice, the candidature of the applicant was rejected. It is well settled in law that once a candidate participates in the exam, he cannot thereafter question the conditions of the exam. Granting relief sought would tantamount to misplaced sympathy and the sanctity of the exam will be compromised. Following the instructions is mandatory and any relief granted will be discriminatory and would give room for multiple litigation all over the country. The mistake is that of the applicant and the Commission is no way

responsible for the same. Respondents cited judgments of the superior judicial fora to support their contentions.

6. Heard both the counsel and perused the pleadings on record.

7. I. The dispute is about the applicant not being allowed to appear in the Combined Graduate Level Examination-2019 for having made a mistake in filling up the online application. The applicant states that it is a bonafide mistake and it is his last chance to appear in the exam in view of the age restriction.



II. To resolve the 2dispute, a close reading of the instructions is necessary. Para 20 (h) of the recruitment notice is hereunder extracted:

“Only one online application is allowed to be submitted by a candidate for the Examination. Therefore, the candidates are advised to exercise due diligence at the time of filing their online Application Forms. In case, more than one applications of a candidate are detected, all the applications will be rejected by the Commission and his/her for the examination will be cancelled. If a candidate submits multiple applications and appears in the examination (at any stage) more than once, his/ her candidature will be cancelled and he/she will be debarred from the examinations of the Commission as per rule.”

The instruction is clear that if more than one application is detected, then all the applications preferred by the candidate would be cancelled. The applicant has made 2 online applications and hence, his candidature was cancelled as per the conditions specified in the recruitment notice. To avoid any malpractice the respondents have laid down such a condition. Among 2,93,004 applications received, 530 were rejected for committing mistakes in filling up the application on line. Further of the 530 rejected 480 were rejected on grounds of multiple applications like that of the applicant, which *defacto* constitutes the bulk of the rejections. Instructions

apply equally to all candidates and any relaxation granted to the applicant would discriminate those candidates who have correctly filled up the online applications. Such discrimination is not permitted under law. Further it was the mistake of the applicant and the Commission is no way responsible. The exam is a competitive exam where lakhs of candidates compete and therefore the sanctity of the exam has to be protected by upholding the instructions laid down in the recruitment notice. Only then the exam would be rated as fair and transparent. If the relief sought is granted then there will be a flood of litigation, citing the relief sought by those candidates whose candidature has been rejected in respect of the notice under reference, but also by those who appeared in other examinations conducted by the U.O.I, citing similar grounds, thereby derailing the examination system and the recruitment process per se. Too diabolic to imagine such an eventuality.



III. In fact, anticipating that the candidates are likely to make mistakes, the respondents have allowed change of basic details twice and thereafter, once the application is submitted then it is final without giving no scope for further corrections. In this regard, the respondents have stated in their reply affidavit as under:

“.....it has been clearly mentioned in Para 6 of Annexure III of the Recruitment Notice regarding the procedure for filling online application that “after completion of registration process, ‘Basic Details’ can be changed only twice. THEREFORE BE EXTREMELY CAUTIOUS WHILE MAKING ONE TIME REGISTRATION”. However, once the application duly filled in by the candidate is submitted to the Commission online, request for change/ correction in any particulars in the Application Form will not be entertained under any circumstances in terms of Para 20(k) of the Recruitment Notice. In other words, Basic details can be changed twice before submission of the Application online to the Commission. Once the Application is finally submitted to the Commission by the candidates, the date furnished by them in the online applications cannot be changed under any circumstances.”



Corrections can be made twice to the basic details before the registration process and not after completion of the registration process as has been contended by the applicant. Therefore, the applicant should have exercised utmost caution in filling up the online application by adhering to the mandatory instructions specified. It was clearly spelt out in the notice that any violation of the instructions will result in rejections of the applications made. The applicant made a mistake and the respondents acted as per mandatory instructions contained in the recruitment notice. It is not the case of the applicant that it was only his case which was rejected but applications of 480 other candidates met the same fate for not abiding by a similarly mandatory instruction as in the case of the applicant. Therefore we do not find fault with the decision of the respondents. Our view is based on the observation of the Hon'ble Apex Court recent judgment rendered in 2019 in *State of Tamil Nadu & Ors v G. Hemalatha & Anr* in Civil Appeal No. 6669 of 2019, decided on 28.8.2019, as under:

10. In her persuasive appeal, Ms. Mohana sought to persuade us to dismiss the appeal which would enable the Respondent to compete in the selection to the post of Civil Judge. It is a well-known adage that, hard cases make bad law. In Umesh Chandra Shukla v. Union of India, Venkataramiah, J., held that:

“13.... exercise of such power of moderation is likely to create a feeling of distrust in the process of selection to public appointments which is intended to be fair and impartial. It may also result in the violation of the principle of equality and may lead to arbitrariness. The cases pointed out by the High Court are no doubt hard cases, but hard cases cannot be allowed to make bad law. In the circumstances, we lean in favour of a strict construction of the Rules and hold that the High Court had no such power under the Rules.”

11. Roberts, CJ. in Caperton v. A.T. Massey held that:

“Extreme cases often test the bounds of established legal principles. There is a cost to yielding to the desire to correct the extreme case, rather than adhering to the legal principle. That cost has been demonstrated so often that it is captured in a legal aphorism: “Hard cases make bad law.”

12. After giving a thoughtful consideration, we are afraid that we cannot approve the judgment of the High Court as any order in favour of the candidate who has violated the mandatory Instructions would be laying down bad law. The other submission made by Ms. Mohana that an order can be passed by us under Article 142 of the Constitution which shall not be treated as a precedent also does not appeal to us.”



The case of the applicant is undoubtedly a hard case. The Ld Counsel for the applicant though was arguing strenuously that technical errors should be ignored and merit should be given priority. However, hard cases make bad law as observed by the Apex Court. In appointments to Group B cadre by Combined Graduate Level exam, the process should be fair and impartial and should not create a feeling of distrust amongst all those who participate. Group B positions are at the cutting edge of the organization. These positions mostly have a direct interface with the public. Hence they are sensitive and important which decide the future of the organization. To hold such positions one has to have a calm and clear mind and not get confused at the drop of a hat. Hence the exam is to test not only the knowledge but the ability to follow instructions. Those who do not follow the instructions fall by the way side. Applicant failed to comply with the mandatory instructions as specified and hence, granting relief as sought, would not be resonating with the above judgment. By telescoping the legal principle laid down above, to the case of the applicant the relief sought cannot be granted, for violating the mandatory instructions indicated in the recruitment notice.

IV. Besides, considering the fact that this is the last chance for the applicant we tried to examine the case from different angles to ensure that justice is not denied to the applicant but we found no ground which could come to the rescue of the applicant as discussed here under:

- i. Applicant has committed the mistake by not properly filling up the online application. The applicant cannot encash his mistake to seek relief sought as laid down by Hon Apex Court in **A.K**

Lakshmipathy v Rai Saheb Pannalal H. Lahoti Charitable Trust
(2010) 1 SCC 287;



- ii. The respondents as a policy decided not to entertain any online application which infringes the mandatory instructions contained in the recruitment notice. Tribunal cannot interfere in Policy matters as laid down by Hon'ble Supreme Court in ***BALCO Employees' Union (Regd.) v. Union of India, (2002) 2 SCC 333*** and in *CSIR v. Ramesh Chandra Agrawal* in Civil Appeal No.1716 of 2004 respectively.
- iii. To treat sharply dissimilar persons equally is subtle injustice. The candidates who have filled in the online applications properly and responsibly would be discriminated by allowing the relaxation sought. The very sanctity of the exam and the relevance of the rules would be compromised. Once such a relaxation is granted then the process would be unending facilitating similar demands for any exam conducted by the U.O.I now and later too.
- iv. Rules laid down have to be followed and Hon'ble Supreme Court has in no uncertain terms has emphasized the necessity to follow rules in a catena of judgments as under:

The Hon'ble Supreme Court observation in T.Kannan and ors vs S.K. Nayyar (1991) 1 SCC 544 held that "Action in respect of matters covered by rules should be regulated by rules". Again in Seigal's case (1992) (1) supp 1 SCC 304 the Hon'ble Supreme Court has stated that "Wanton or deliberate deviation in implementation of rules should be curbed and snubbed." In another judgment reported in (2007) 7 SCJ 353 the Hon'ble Apex court held "the court cannot de hors rules"

Repeated instructions to follow the rules, in regard to filling the correct details in the on line application has been emphasized in



the relevant recruitment notice. Committing a mistake and pleading to grant relief as sought, by violating the rules, would be in violation of the above observations of the Hon'ble Supreme Court as at above. Mistake is not a minor one since it is the very foundation of the examination system. Without the foundation there can be no building which can be constructed. Similarly there can be no building of an exam without the foundation of a properly filled online application.

- v. Tribunal is not empowered to relax the rules framed by the respondents and accommodate the applicant plea, as pointed out by the Hon'ble Apex Court in *Govt. of Orissa v. Hanichal Roy*, (1998) 6 SCC 626.
- vi. End has to be legitimately justifiable as observed by Hon'ble Apex Court in *State of Kerala v. N.M. Thomas*, (1976) 2 SCC 310, at page 356. The applicant is seeking relief for which he is not legitimately eligible as the relief sought has to be granted by violating the relevant rules.
- vii. Rules of the game cannot be changed enroute as observed by the Hon'ble Apex Court in *K. Manjusree v. State of A.P.* : (2008) 3 SCC 512. The rule of the game was to fill in the online application correctly as per mandatory instructions in the recruitment notice which cannot be changed for the sake of the applicant after his application was scrutinized and rejected.

- viii. Public interest is paramount. The post to which selection is being conducted is for Group B cadre which is a responsible position in the public domain. Any selection to such posts has to be fair and objective. Yardsticks laid down have to be strictly applied and there should not be any relaxation whatsoever whether the mistake committed is minor or major. Uniformity, consistency and transparency are the hall marks of any examination process. Any deviation from the above parameters would vitiate the examination system as a whole. Rules usher in organisational discipline and growth. If rules are bent as is sought in the instant case, then lakhs of candidates who appear in different exams conducted by U.O.I will seek similar relief on one or the other ground, thereby defeating the very objective of framing rules. It also raises a basic question as to why have the rules at all ! Any administrative decision, as in the instant case of selection to the Group B post, the constitutional requirement is that it has to be made in public interest, as observed by the Hon'ble Supreme Court in Supreme Court of India in *Nidhi Kaim vs State Of M P And Ors Etc* on 12 May, 2016 in CIVIL APPEAL No. 1727 OF 2016, as under:



“No doubt, that the overarching requirement of Constitution is that every action of the State must be informed with reason and must be in public interest.”

The public interest in the case on hand is that the examination has to be conducted by following the mandatory instructions. The action of the respondents to uphold the application of mandatory rules is in public interest, which is a constitutional requirement, and hence it

cannot be found fault with , in wavelength with the observation of the Hon'ble Supreme Court cited above.



ix. Further, taking support of the observation of the Hon'ble Supreme Court [In Brij Mohan Parihar v. M.P.S.R.T. Corpn.](#), where in it was observed that relief cannot be granted which is forbidden under law, the Tribunal is forbidden to allow the relief sought by applicant by taking into consideration the facts and circumstances of the case and the law as expounded by the Hon'ble Apex Court as at paras supra.

V. We have full sympathy for the applicant since we understand that based on the interim relief granted, he did clear the Tier I exam. However, to grant the final relief sought, his case is a hard case and hard cases make bad law. Therefore, after comprehensively examining the case based on Rules and Law, we do not find any merit in the OA and requires to be dismissed. Accordingly, dismissed. Parties will bear their own costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

al/evr