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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. OA 1565 of 1987

Date of decision: 9.7.1990

Narinder Pal Singh

Applicant.

Vs.

Union of India & Others

Respondents.

PRESENT

Shri R.K. Kamal, counsel for the applicant.

Shri M.L. Verma, counsel for the respondents.

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Hon'ble Shri B.C. Mathur, Vice-Chairman.

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

(Judgment of the Bench delivered by Hon'ble
Shri B.C. Mathur, Vice-Chairman.)

This is an application under Section 19 of the Administrative Tribunals Act, 1985, filed by Shri Narinder Pal Singh, Junior Engineer, C.P.W.D., against the result of the Limited Departmental Examination held by the UPSC in 1982 for the posts of Assistant Engineer (C.P.W.D.), the result of which was declared on 26.11.1983.

2. Brief facts of the case, as stated by the applicant, are that he appeared at the Limited Departmental Examination held for the posts of Assistant engineer (C.P.W.D.) by the U.P.S.C. in April 1982 followed by an interview in July 1983. 600 marks were kept for the written examination and 400 for the oral interview. He obtained 279 marks in the written papers and 202 marks out of 400 in the personality test and evaluation of record of service. A written warning had been communicated to him in 1982 and this was kept in his confidential dossier. His ACRs for the period 1.4.81 to 30.11.81 and 1.4.82 to 31.3.83 were not furnished by the Department to the UPSC. The warning issued to him in 1982 was withdrawn in 1987, but as this warning was part of his dossier received by the UPSC, he had been prejudiced in the evaluation. His case is that candidates securing 484 marks were

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recommended by the UPSC for the post of Assistant Engineer, but he was not recommended as he got a total of 481 marks. Had the marks in the evaluation of service records of the applicant not been vitiated by the letter of warning kept in the dossier and by not considering his ACR for the period mentioned above, perhaps he would have secured 484 marks ^{or more than} and would have been recommended by the UPSC. According to the applicant, although the result of the UPSC examination was declared in 1983, the cause of action arose on 29.9.87 when the warning issued to him was withdrawn. The warning had been issued by the Superintending Engineer, CPWD, ^{the} for loss of some pages from a measurement book and the applicant apprehends that the UPSC would have considered this as a very serious matter and, therefore, this recorded warning would have vitiated the award of marks for the "Evaluation of Service Records". He says that the warning was discussed during the interview.

3. The respondents in their reply have said that the applicant was considered by the UPSC, the highest constitutional body for this purpose, but he was not found fit for appointment as Asstt. Engineer. It has been stated that the warning was not considered by the U.P.S.C. According to the respondents, the service record of the candidates declared successful in the written examination for the years 1978-79, 1979-80, 1980-81 upto 1981-82 only were taken into consideration. The dossiers of successful candidates, including the applicant, were forwarded to the UPSC on 28.5.1983. Since the CRs upto March 1982 were taken into consideration, the warning issued to him on 28.7.1982 was not taken into consideration even though the applicant might have been asked about the background relating to the warning. The name of the applicant was not recommended by the UPSC on the basis of the merit obtained by him. They have also denied that any CR till 31.3.1982 was missing.

4. The learned counsel for the applicant stressed the point that since the respondents admit that during the personality test, subject of warning could have been discussed makes it clear that the Members of the UPSC would have been influenced by this warn-

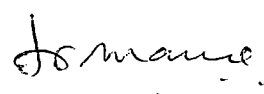
ing and this would have adversely affected the total marks given by them. The learned counsel did not attribute any bias or mala fide on the part of any one but said that since an adverse entry did find place in the records sent to the UPSC, it would vitiate the selection as this recorded warning was subsequently withdrawn and should not have been taken into consideration by the Members of the UPSC who conducted the interview.


5. The learned counsel for the respondents said that the applicant appeared before the Interview Board and did not take any objection at that time regarding the recorded warning. The Tribunal cannot at this stage go into the minds of the Members who conducted the interview and come ^{to} a conclusion that they had given lower marks to the applicant because of an adverse entry, specially when the respondents deny that such an entry was actually taken into consideration by the UPSC. He said that the applicant is estopped from taking this plea at this belated stage. careful

6. We have gone through the pleadings and given consideration to the arguments by the learned counsel. We feel that it is very difficult for us to form any opinion regarding the basis on which marks were awarded in the interview by the UPSC. We find that the applicant received less than 50% marks in his written papers whereas he secured 51% marks in the personality and evaluation of records of service. Merely because the written warning given in 1982 was withdrawn in 1987 it does not stand to reason that the results of the examination conducted by the UPSC in 1982 and 1983 should be upset at this stage. It is possible that the UPSC did not take any notice of the warning when the applicant would have told that he had made a representation against the same, but we cannot have any opinion on this matter. We cannot substitute the UPSC in the matter of selection and at this stage would not like to interfere with the recommendations of the U.P.S.C. In the circumstances, we cannot provide any relief

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to the applicant and the application is dismissed. Parties to bear their own costs.


(J.P. SHARMA)
Member (J)


(B.C. MATHUR) 9.7.96
Vice-Chairman