

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(b)

O.A. NO. 2028/92

DECIDED ON : September 10, 1992

Nand Lal

... Applicant

Vs.

The Secretary, Union Public
Service Commission & Ors. ... Respondents

COURT : THE HON'BLE MR. T. S. OBEROI, MEMBER (J)
THE HON'BLE MR. P. C. JAIN, MEMBER (A)

Shri M. K. Ramamurthy, Sr. Counsel with
Mrs. Chandan Ramamurthy, Counsel for the
Applicant

Mrs. Rajkumari Chopra, Counsel for the
Respondents.

JUDGMENT

By Hon'ble Shri P. C. Jain, Member (A) :

Briefly stated, the relevant facts giving rise to the present proceedings are that the applicant appeared in the Civil Services Examination, 1990 and after being declared successful was allotted to the Indian Railway Traffic Service. He again appeared in the Civil Services Examination, 1991 and after having been declared successful in the Preliminary Examination, he was admitted to the Main Examination. In the list of successful candidates on the basis of the Main Examination his name was not included and on his representation he was informed by the UPSC by letter dated 20.7.1992 that as he had failed to obtain qualifying marks fixed by the Commission in the compulsory qualifying paper(s) in Indian Language for the Civil Services (Main) Examination, 1991, his scripts in General Studies and Optional Subjects were not evaluated in terms of the Note (ii) under Section II(B) of Appendix I to the Rules for the

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Examination, a copy of which had been supplied to him along with the blank application form and as such, no marks sheet would be issued to him. The applicant is aggrieved by the aforesaid order. He has filed this original application under Section 19 of the Administrative Tribunals Act, 1985 praying for the following reliefs :-

- "(i) to quash Para (ii) of Section II to Appendix I of the Rules in its application to candidates who have already been approved for appointment to Group 'A' Services;
- (ii) to quash Annexure-I i.e. order dated 20-7-92 passed by Respondent No.2;
- (iii) to direct Respondents 1 and 2 to evaluate Indian Language (Hindi) paper after applying relaxed standards in Terms of Rule 14.
- (iv) to direct Respondents 1 and 2 to evaluate the papers written by the applicant in General Studies and optional subjects;
- (v) to direct Respondents 1 and 2 to declare results in the papers written in General Studies and Optional Subjects;
- (vi) to direct Respondents 1 and 2 to call for interview after the applicant has qualified in the above mentioned papers either on merits or on relaxation applicable to SC/ST candidates;
- (vii) to direct Respondents 1 and 2 to give appointment on the basis of final ranking."

As an interim relief, the applicant has prayed for a direction to the respondents to get evaluated forthwith his papers in General Studies, History and Public Administration, and if found eligible as a result of such evaluation, arrange for his interview along with other candidates of 1991 Examination and give provisional appointment for any one of the three Services (I.A.S., I.F.S. and I.P.S.) if selected either on merit or on the basis of relaxation applicable to Scheduled Caste candidates. The ground for seeking the aforesaid interim relief was stated to be that the interviews had started from 3.8.1992 which would continue till 3.9.1992.

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2. On notice to the respondents on admission as well as interim relief, the respondents have filed a reply opposing the O.A. The applicant did not consider it essential to file a rejoinder thereto. In view of the stated urgency of the matter and with the consent of both the parties, it was decided to hear the case finally and dispose of the same at the admission stage itself. Accordingly, we have perused the material on record and also heard the learned counsel for the parties.

3. The fact that the applicant belongs to Scheduled Caste and the facts about his being allotted a Group 'A' Service on the basis of 1990 Examination and his scripts for the main subjects in the Main Examination/^{of 1991} not having been evaluated, are not in dispute. The rules for the Civil Services Competitive Examination, 1991 were notified by the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training) in the Notification dated 5.1.1991. Rule 14 of the aforesaid rules is extracted below :-

"14. Candidates who obtain such minimum qualifying marks in the Preliminary Examination as may be fixed by the Commission at their discretion shall be admitted to the Main Examination; and candidates who obtain such minimum qualifying marks in the Main Examination (written) as may be fixed by the Commission at their discretion shall be summoned by them for an interview for personality test.

Provides that candidates belonging to the Scheduled Castes or Scheduled Tribes may be summoned for an interview for a personality test by the Commission by applying relaxed standards in the Preliminary Examination as well as Main Examination (written) if the Commission is of the opinion that sufficient number of candidates from these communities are not likely to be summoned for interview for a personality test on the basis of the general standard in order to fill up the vacancies reserved for them."

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It is the aforesaid proviso which has been inter alia relied upon by the applicant in support of his case. Other provisions relevant for this case are contained in Section II-B. Main Examination. The Main Examination inter alia comprises of one paper in one of the Indian Languages to be selected by the candidate from the languages included in the Eight Schedule to the Constitution and another paper on English. Notes (i) and (ii) under the above head are extracted below :-

"Note : (i) The papers on Indian Languages and English will be of Matriculation or equivalent standard and will be of qualifying nature. The marks obtained in these papers will not be counted for ranking.

(ii) The papers on General Studies and Optional Subjects of only such candidates will be evaluated as attain such minimum standard as may be fixed by the Commission in its discretion for the qualifying papers on Indian Language and English."

It is in accordance with the provisions of Note (ii) above that the scripts of the applicant in the paper on General Studies and Optional Subjects offered by him in the Main Examination were not evaluated as he is said to have not qualified in the Indian Language paper (Hindi) offered by him.

4. In the background of the relevant rules as extracted above, the applicant's case is that as he had already qualified in the Indian Language paper (Hindi) in the 1990 Examination in which he came out successful for a Group 'A' Service, he is not required to qualify again in the same paper in the 1991 Examination, and in the alternative, if it is held to be otherwise, such a requirement is arbitrary.

and discriminatory and thus violative of Articles 14 and 16 of the Constitution inasmuch as he forms a separate class having already come out successful in the previous year's Examination and he had taken the subsequent Examination only for improving his rank in the merit list for becoming eligible for appointment to IAS or IFS or IPS.

5. His second contention is that he being a Scheduled Caste candidate, relaxed standards should have been applied to him while assessing his performance for qualifying in the Indian Language paper. He has also stated that he belongs to a Hindi-speaking State (Haryana); that Hindi is his mother tongue; that he passed the Matriculation examination securing 70 per cent marks in Hindi; that all throughout, his medium of instructions had been in Hindi. It is also stated that he has working knowledge of Hindi inasmuch as he is working in Hindi with his present employer, i.e., Delhi Development Authority, and he can read and write Hindi well to the level of graduation whereas the paper on Indian Language and English under the rules is required to be only of Matriculation or equivalent standard which too is of a qualifying nature and the marks obtained therein are not counted for determining the ranking in the merit list. It is his further contention that though not required to appear in compulsory qualifying subjects for improving his position, yet he re-appeared in these papers also, had done his Hindi paper very well, and that he apprehends that there has been improper evaluation and some omission in counting or re-checking, otherwise the applicant was not even expecting less than 50 per cent by any remote chance. The respondents in their reply have stated that on the request of the applicant himself his answer books

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in Hindi (compulsory) paper were re-checked but no mistake of any kind was detected, and this fact was also communicated to him vide the Commission's letter dated 12.8.1992. It is also their case that each year's Examination is a separate Examination in itself and the performance of a candidate in one examination is not relevant if he takes another examination, and as such the applicant was required to appear in the compulsory Language paper for the 1991 Examination also and if he did not obtain the qualifying marks in the Indian Language paper on Hindi, as per the rules, scripts in other papers in the Main Examination were not required to be evaluated. They have also taken the stand that the provisions regarding relaxed standards as admissible under proviso to rule 14, already extracted above, are not applicable to the requirement of qualification in the Indian Language paper.

6. We have given our careful consideration to the rival contentions of the parties. We have no hesitation in holding that each examination is independent of others and is self-contained and, therefore, performance in any subject in any one examination is not relevant for any other examination either precedent or subsequent thereto. It is well known that the performance of candidates ~~varies~~ from one examination to another even in the same subject. The mere fact that the applicant had qualified in the Indian Language paper on Hindi in the 1990 Examination, does not, therefore, exempt him from the requirement to qualify again in the 1991 Examination. The provisions of the rules are clearly applicable to him and his contention that he forms a separate class is not legally tenable. For the 1991 Examination all those who took part in 1990 Examination, a separate class cannot be formed and, therefore, the plea of arbitrariness

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and discrimination is without any force of law. The learned sernir counsel for the applicant submitted at the bar that he is not challenging at all the standard/qualification of which might have been prescribed by the UPSC for qualifying in the Language paper and he rightly and fairly submitted that under the rules as well as in accordance with the judgment in the case of Brij Kishore Dubey & 5 Ors. vs. Union of India & Anr. : 1989 (2) (CAT) 577, the standard prescribed by the UPSC could not be challenged by the applicant. As stated by the respondents in their reply, his script in the Indian Language paper on Hindi has been re-checked and no omission or error has been detected. This averment has not been rebutted. As such, it has to be held that the applicant failed to qualify in the Indian Language paper on Hindi and in accordance with the requirement of the rules the UPSC cannot be faulted for not evaluating his scripts in the other main subjects.

7. Learned counsel for the respondents also referred to the judgment of the Hyderabad Bench of the Tribunal in O.A. No. 407/89 decided on 8.5.1990 in the case of S. N. Badrinath vs. The Secretary, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, New Delhi & Another, in which the provision contained in note (ii) of Section II(B) to Appendix I of the Rules for the Competitive Examination were challenged to be illegal and arbitrary and the contention of the applicant in this regard was negatived. In that case, the Bench had inter alia held that the minimum marks fixed for the qualifying examination is well within the standard indicated.

8. The other contention of the applicant which remains for adjudication is about application of relaxed standards in assessing his performance in qualifying in the Indian Language
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paper on Hindi on account of his being a SC candidate. We have already extracted above the relevant provisions contained in proviso to rule 14. A perusal of the same leaves no scope for any ambiguity. What is required is that if the Commission is of the opinion that sufficient number of candidates belonging to SCs or STs are not likely to be summoned for interview for personality test on the basis of the general standard in order to fill up the vacancies reserved for them, candidates belonging to these communities may be summoned for an interview for personality test by applying the relaxed standards in the Preliminary Examination as well as the Main Examination (written). Thus, the stage for the need to apply relaxed standards would arise only after sufficient number of candidates from these communities are not otherwise available for being summoned for interview for a personality test. There is no averment by the applicant that such a contingency existed and, therefore, the Commission was duty bound to consider to apply relaxed standards. Thus, the benefit of the aforesaid provision cannot be extended automatically to the applicant; there is a condition precedent to the application of this provision and before a candidate can insist on application of this provision, the onus of proving that the condition precedent is fulfilled lies on the applicant. What to say of discharging the above onus, he has not even made an averment to that effect. Even otherwise, the applicant is not entitled even on merits to any relief on this account. As already stated above, his case is that he belongs to a Hindi-speaking State; that Hindi is his mother tongue; that he had passed the Matriculation examination securing 70 per cent marks in Hindi; and that throughout his medium of instructions has been in Hindi. Admittedly, the qualifying standard of the

Indian Language paper on Hindi is only of Matriculation standard. It is stated in the judgment in the case of Brij Kishore Dubey (supra) as also in the case of S. N. Badrinath (supra) that the qualifying standard fixed by the UPSC remained constant in recent years. In fact, in the judgment in Brij Kishore Dubey's (supra) case it is stated to have been 20 per cent for three years' continuously. The applicant had qualified in this paper in the 1990 Examination. On these facts, it cannot be stated that because of the applicant being a SC candidate he was not in a position to qualify in that paper. We are, therefore, of the considered view that the applicant is not entitled either under the rules or even on merits to any relaxed standards being applied to his case for purposes of qualifying in the Indian Language paper on Hindi.

9. In the light of the foregoing discussion, we are of the view that the O.A. is devoid of merit and the same is accordingly dismissed at the admission stage itself leaving the parties to bear their own costs.

(P. C. JAIN)
MEMBER (A)

(T. S. OBEROI)
MEMBER (J)

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