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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA No.340/92

Date of Decision:05.05.1992.

Arun Kumar Srivastava ...Applicant

Versus

Union of India ...Respondents

Coram:-

The Hon'ble Mr. P.K. Kartha, Vice-Chairman(J)

The Hon'ble Mr. I.K. Rasgotra, Member (A)

1. Whether Reporters of Local Papers may be allowed
to see the Judgement? *yes*

2. To be referred to the Reporter or not? *No*

For the applicant

In Person

For the respondents

Shri P.H. Ramchandani,
Senior Counsel.

JUDGEMENT(ORAL)

(Delivered by Hon'ble Mr. P.K. Kartha, Vice-Chairman (J))

We have heard the applicant in person and the
learned counsel for the respondents Shri P.H.
Ramchandani.

2. The applicant is a member of the Indian Civil
Account Service (Group 'A') who has been appointed on
the basis of the results of the Civil Services

yes

Examination held in 1985. Thereafter he had appeared in 1986 and 1990 examinations. He intends to appear in the Civil Services Examination, 1992 but he is ineligible to appear in the Examination as per the existing eligibility conditions. He has prayed for the following reliefs in the present Application:-

"Respondents should suitably modify the eligibility conditions as contained in clause 'b' of the second proviso to Rule 4(iv) of Notice of UPSC, for CSE 1992 only, by either

(i) inserting a paragraph in the said eligibility conditions stating that the candidates who were issued admit cards for the 1990 examination will be eligible to take the 1992 examination,

OR

(ii) making the eligibility conditions as contained in second proviso to Rule 4(iv) of CSE Rules, applicable on the applicant in the same form as it existed in 1990 examination,

thereby making the applicant ~~suomote~~ eligible to take up the special chance of CSE 1992."

3. The learned counsel for the respondents submitted that it will not be within the judicial function to issue any direction to the respondents for

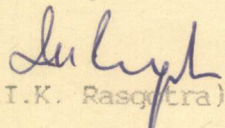
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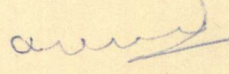
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the insertion of any provision in the rules for the examination, so as to make the applicant eligible to appear in the said examination. He relied upon the decision of the Hon'ble Supreme Court in **Mallikarjuna Rao & Ors. etc. etc. V. State of A.P. & Ors. etc.etc.** JT 1990 (3) SC 34 at 38-39.

4. After considering the contentions advanced by both sides, we are of the opinion that it will not be appropriate for the Tribunal to issue any mandatory direction to the respondents to modify the eligibility conditions, contained in the Rules, as prayed for in the present Application. In **Mallikarjuna's** (supra) case the Supreme Court has held that "The High Courts or the Administrative Tribunals cannot issue a mandate to State Governments to legislate under Article 309 of the Constitution of India. The Courts cannot usurp the functions assigned to the executive under the Constitution and cannot even indirectly require the executive to exercise its rule-making power in any manner."

5. In view of the foregoing, we see no merit in the present Application and the same is dismissed. Incidentally, we also note that the applicant has not made any representation to the respondents regarding his grievance, before filing the present Application.


(I.K. Rasgotra)
Member(A)


(P.K. Kartha)
Vice-Chairman

May 5, 1992,