

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.747/92

DATE OF DECISION: 24.04.1992.

SHRI N.K. SHARMA

...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)

FOR THE APPLICANT

SHRI H.C. MALHOTRA, COUNSEL.

1. Whether Reporters of Local Papers may be allowed to see the Judgement or not? *Yes*
2. To be referred to the Reporter or not? *Yes*

  
(I.K. RASGOTRA)  
MEMBER(A)

  
(P.K. KARTHA)  
VICE-CHAIRMAN(J)

April 24, 1992.

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FOR THE APPLICANT SHRI H.C. MALHOTRA, COUNSEL.

**JUDGEMENT**

(DELIVERED BY HON'BLE MR. I.K. RASGOTRA, MEMBER (A))

Shri N.K. Sharma has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, aggrieved by the decision of the respondents conveyed in F1/5/91-E-I(B) issued by the Union Public Service Commission (UPSC for short) and notified in Employment News of 28.12.1991-3.1.1992, according to which the Respondent No.2, viz. U.P.S.C. has allowed the candidates within the age group of 21-33 years to appear in the Civil Services Examination 1992 and increased the number of chances from four to five. The date of birth of the applicant is 10.06.1957 and he had appeared in the Civil Services Examinations 1981, 1982, 1983 and 1990. The applicant, therefore, on the crucial date viz. 1.8.1992 would be over 35 years of age. He apprehends that in the circumstances in which he is placed, the Respondent No.2 would reject his Application for want of eligibility in respect

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of age, thereby preventing him from taking the Civil Services Examination, 1992. The main ground of attack of the applicant is that in the year 1990 also the respondents had made changes in respect of age limit and in respect of number of chances to be availed of by the candidates for that particular year only. This was successfully challenged in the various Benches of the Tribunal and the applicants therein although had crossed the age of 31 years, were allowed by the Tribunal to appear in the Civil Services Examination, 1990.

The learned counsel appearing for the applicant drew our attention to an interim order passed by the Lucknow Bench of the Tribunal in OA 56/92 and OA 58/92, allowing the applicants therein to appear in the examination by directing the respondents to entertain their applications even if they crossed the age of 33 years as on 1.8.1992.

2. We have heard the learned counsel for the applicant and perused the record placed on the judicial file. In our opinion, the issues of law and fact of the litigation in respect of the C.S.E. 1990 and the matter brought up before us are distinguishable and, therefore, we are not persuaded to accept that our interference is warranted with the proposed C.S.E., 1992 on that ground. We are also not aware of the full facts and circumstances in which the Lucknow Bench of the Tribunal had given an interim order in O.A., referred to in the preceding paragraph. The Rules for Civil Services Examination are statutory in nature and not open to challenge unless they are irrational or arbitrary. The framing, reframing, changing and rechanging the Rules to meet the needs of the situation lies exclusively in the domain of

21

1

the executive and is not open to challenge unless there is a proven case of malafide. The administrative action is subject to control by judicial review under three heads:-

"(1) illegality, where the decision-making authority has been guilty of an error of law, eg by purporting to exercise a power it does not possess;

(2) irrationality, where the decision-making authority has acted so unreasonably that no reasonable authority would have made the decision;

(3) procedural impropriety where the decision-making authority has failed in its duty to act fairly."\*

The procedural changes made in regard to the number of chances and the age limit from time to time have been made by the respondents, keeping in view all relevant factors and they have been made equally applicable to all equally placed persons. Such a classification has been held to be permissible within the framework of the Constitutional provisions, as it is meant to advance a larger social objective. The applicant has not been able to demonstrate to our satisfaction that the classification made by raising the age and by increasing the number of chances is bad in law, irrational and therefore illegal. We are, therefore, not inclined to favour judicial interference in this matter.

In the facts and circumstances of the case the application is bereft of merit and is dismissed at the admission stage itself.

*Deb*  
(I.K. RASGOTRA)

MEMBER(A) 24/4/92

*Deb*  
(P.K. KARTHA)  
VICE-CHAIRMAN(J)

April 24, 1992.

\*Judgement of House of Lords reported as (1984) 3 All ER 935, Council of Civil Service Unions and Others Vs. Minister for the Civil Service.