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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No.2605 of 1993

New Delhi this the 11th day of January, 1994

Mr. Justice S.K. Dhaon, Vice-Chairman
Mr. B.N. Dhoundiyal, Member

Shri Shishir Kumar
R/o B-5/140, Yamuna Vihar,
Delhi-110093.

...Applicant

By Advocate Shri Pavan Kumar

Versus

1. Ministry of Personnel through Secretary,
Public Grievances & Pensions,
(Department of Personnel & Training)
Government of India,
South Block,
New Delhi.

2. Secretary,
U.P.S.C.,
Dholpur House,
Shahjahan Road.
New Delhi.

...Respondents

By Sr. Standing Counsel Shri N.S. Mehta

ORDER (ORAL)

Mr. Justice S.K. Dhaon, Vice-Chairman

The applicant was a candidate for the Civil Services (Main) Examination, 1993. It appears that the examination commenced on 10.12.1993. On 12.12.1993, the examination was held in two sessions. The afternoon session was to commence at 2.00 P.M. The applicant was required to appear in the afternoon session as he had to offer himself as a candidate for the compulsory English paper. According to the applicant, he reached the examination hall 5 minutes late whereas according to the respondents, he reached there at 2.25 P.M. He was not allowed to appear in the paper. He came to this Tribunal with the complaint that since he was only 5 minutes late and as per rules framed the candidate who had presented himself after 10 minutes of the commencement of the examination could be permitted to appear in the said examination. We directed Shri N.S. Mehta, Sr. Counsel to appear in this case and file a counter-affidavit and in the meanwhile permitted the applicant to appear in the remaining papers on the provisional basis.

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2. A counter-affidavit has been filed on behalf of the respondents and a rejoinder-affidavit too has been filed. Counsel for the parties have been heard. Since the petition is ripe for hearing, we are disposing it of finally.

3. The crucial question of fact to be determined is as to whether the version given by the applicant is correct. Shri Mehta, the learned senior counsel appearing for the respondents has produced before us the relevant records. We have perused the same. We find that on 14.12.93 the Section Officer concerned submitted a report stating therein that the applicant reached the ST. Marks Senior Secondary Public School, Janak Puri which ^{was} the Centre allotted to him at 2.25 P.M. on 12.12.93. We have also the report of D.O., E-4 dated 16.12.93 substantially corroborating the earlier report given by the Section Officer. The record also contains the report of the Supervisor dated 20.12.93 stating therein that the applicant who had been allotted Roll No. 018975 came to the examination hall at 2.25 P.M. We have, therefore, two versions before us. The one given by the applicant and other by the respondents.

4. We may note that this O.A. was presented before this Tribunal on 14.12.93. The Registry had pointed out a defect and, therefore, the petition was refiled on 15.12.93. We have already stated that the report of the Section Officer is dated 14.12.93. Therefore, the question of the report being manipulated at the Centre to meet this

O.A. is ruled out. The Supervisor is the Principal of a well known institution of the town. It cannot be said that the Supervisor had any animosity towards the applicant.

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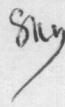


We see no reason to disbelieve the version of the respondents.

We, therefore, record the finding that the applicant had, in fact, reached the examination centre on 12.12.93 at 2.25 P.M.

5. The learned counsel has urged that since the applicant was required to appear in a compulsory paper and since the marking on this paper was to be ignored, while considering the mertis, we should give a direction to the respondents to declare the result of the applicant with respect to other papers wherein he had appeared. Learned notice counsel has not been able to bring to our any rule or past practice where a candidate though having failed to appear in the compulsory paper was subsequently allowed to appear in the rest of the papers. The learned counsel has very fairly stated at the Bar that a candidate who does not appear in the compulsory paper is debarred from appearing in the rest of the papers. We are, therefore, unable to grant any relief to the applicant on this score.

6. We may now advert to the instructions given to the candidates which have been placed before us in the form of Annexure-E to the O.A. In the first paragraph of the instructions it is emphasised that a candidate is required to enter the Examination Hall 20 minutes before the prescribed time for the commencement of the examination and get seated immediately. The second paragraph states that no candidate shall be admitted to the Examination Hall after 10 minutes of the commencement of the paper. The foot-note to these instructions provide that the decision of the Supervisor as to whether the time as indicated above for admission to or leaving the Examination Hall, is over or not and regarding expiry of the allotted time shall be final. It is thus seen that the instructions were specific and mandatory in character, namely, no candidate could be admitted to the Examination Hall after 10 minutes of the commencement of the examination.



7. The averments made in paragraph 6 of the reply are these. 4 other candidates who came late to the Examination Hall on 10.12.93 were not allowed to take the examination for the particular papers in accordance with the instructions. The instructions of the Commission are enforced uniformly at all the centres throughout the country and there is no scope for any departure from the same. The applicant was fully aware of the consequences of coming late to the Examination Hall. The applicant had already appeared on 13.06.1993 in the Civil Services (Preliminary) Examination, 1993, in which the time limit of 10 minutes for late entry was prevalent. The applicant had appeared in the Civil Services (Main) Examination, 1993 in the earlier papers, namely, General Studies Paper-I & Paper-II on 10.12.93, Essay Paper on 11.12.93 and the Indian Language Paper on the morning of the 12th December, 1993. The applicant was, therefore, not a stranger to the instructions. Learned counsel for the applicant has urged that earlier the instructions provided that a candidate who reached the Examination Centre 30 minutes beyond the scheduled time was permitted to appear in the examination. The rule which had been modified later on and confined to 10 minutes was, therefore, arbitrarily framed. We find that there is no arbitrariness in the rule. As already indicated, the applicant had full knowledge of the change in the rule.

8. Having considered the matter with anxiety, we feel that this is not a fit case where the applicant can get any relief. The petition has, therefore, to be rejected.

9. The O.A. is dismissed but without any order as to costs.

(B.K. SINGH)
MEMBER (A)
11.01.1994

S.K.
(S.K. DHAON)
VICE CHAIRMAN
11.01.1994