

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE**

ORIGINAL APPLICATION NO.170/593/2020

ORDER RESERVED ON 07.06.2021

DATE OF ORDER: 29.06.2021

CORAM:

HON'BLE SHRI SURESH KUMAR MONGA, MEMBER (J)

(On video conference from Central Administrative Tribunal, Chandigarh Bench, Chandigarh)

HON'BLE SHRI RAKESH KUMAR GUPTA, MEMBER (A)

(On video conference from his residence at Bangalore)

Ajay Patil
S/o Mahanteshgouda
Aged about 28 years
Residing at: Girija Nivas
Shriniketan Ruby Meadows
Saptapur 1st Cross, Near Naidu Girani
Opposite Dileep Deshpande Hospital
Dharwad-580001.Applicant

(By Advocate Shri Raghavendra G Gayatri – through video conference)

Vs.

1. Union of India

Through its Secretary
Department of Personnel and Training
Ministry of Personnel, Public Grievance & Pension
North Block, New Delhi – 110 001.

2. Staff Selection Commission

Through its Chairman (Head Quarter)
Block No.12, CGO Complex
Lodhi Road, New Delhi-110504.

3. Staff Selection Commission

Karnataka-Kerala Region (KKR)
Through its Regional Director
1st Floor, 'E' Wing, Kendriya Sadan
Koramangala, Bangalore-560034. Respondents

(By Advocate Shri M.V.Rao – through video conference)

ORDER

PER: RAKESH KUMAR GUPTA, MEMBER (A)

1. The applicant has filed the present Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:
 - a. Quash and set aside the impugned action/order of the respondents rejecting the applicant's candidature reflected in the impugned decision dated 09.11.2020 vide Annexure-A8 to the extent it relates to the applicant.
 - b. Direct the respondents to evaluate the answer booklet no.2045501 for Roll no.9004002848 of the applicant for Tier-3 examination and further consider the applicant's case for appointment as per his merit position along with others.
2. The applicant, in his pleadings, filed through his Counsel Shri Raghavendra G.Gayatri, has averred as follows:
 - i. The applicant is a graduate in Engineering (B.E) in Electronics and Communication. The 2nd respondent (Staff Selection Commission) issued a notification on 05.05.2018 for the Combined Graduate Level Examination – 2018 for filling up Group 'B' and Group 'C' posts in various Ministries/Departments/Organizations in the Government of India. The last date for applying for these posts was 04.06.2018.
 - ii. The applicant applied online for these posts within the stipulated date. As per the notification, the method of recruitment was by way of written examination to be conducted in 4 stages. Clause 9 of the notification stipulated that the examination will be conducted in four tiers as indicated below:

- a. Tier-I – Computer Based Examination
- b. Tier-II – Computer Based Examination
- c. Tier-III – Pen and Paper Mode (Descriptive paper)
- d. Tier-IV – Computer Proficiency Test/Skill Test (wherever applicable)/Document Verification

iii. The applicant appeared for Tier-I examination on 10.06.2019 and as per the result declared by the 2nd respondent, he secured 166.12606 marks therein. Thereafter, the applicant appeared for Tier-II examination which was conducted on 13.09.2019 and 14.09.2019. As per the results declared by the 2nd respondent i.e. Staff Selection Commission(SSC), the applicant was also declared successful in the said Tier-II examination. The applicant then appeared in the Tier-III examination on 29.12.2019. The 2nd respondent declared the results of Tier-III examination through website wherein it was announced that the applicant's candidature had been rejected for the reason that the answer booklet was not signed by him. Subsequently, the applicant filed RTI seeking information regarding his rejection. The applicant received a communication dated 09.11.2020 along with a copy of his question paper cum answer sheet from the 1st respondent. As per this communication, the answer sheet of the applicant was not evaluated only on the ground that the signature of the applicant was not found on the 1st page of answer booklet. The applicant had clearly mentioned his roll No.9004002848 and had also put his left-hand thumb impression on the answer booklet. However, he had,inadvertently, not signed on the first page of the booklet. The invigilator had also signed the booklet and sent it for evaluation.

However, merely because the applicant had not signed the booklet, his answer sheet had not been evaluated. It was stated that “*the Question paper-cum Answer books not bearing candidate's Roll No., Signatures, and Left-hand thumb impression, will not be evaluated and such candidates shall be awarded 'zero' marks*”.

- iv. The applicant submitted that his failure to sign on the booklet was an inadvertent mistake committed by him, and for that reason, the rejection of evaluation has taken away his right to take the public appointment. The defect is a curable defect without any malafide intention.
3. The respondents have filed their detailed reply to the OA. In their reply filed through Shri M.V.Rao, they have stated as follows:
 - i. The instructions given on the first page of the Question paper-cum-Answer book of Tier –III examination read as ‘Question Paper-cum Answer Books not bearing candidate's Roll Number, Signature and Left hand Thumb impression, wherever required, will not be evaluated and such candidates shall be awarded 'Zero marks’.
 - ii. Out of a total of 50,294 candidates, 42,510 candidates had actually appeared in the Tier - III examination. Majority of the candidates who appeared in this examination, had followed the instructions of the Commission scrupulously. However, 396 candidates had failed to put their signatures on the first/cover page of their answer booklets. All these candidates have been awarded zero marks on the grounds of

‘without signature’ in strict compliance of the mandatory instructions for the examination.

iii. The terms and conditions of the examination are binding both on the Commission as well as on the applicants and adherence to the rules and regulations by the Commission is mandatory to preserve and protect the sanctity of the examination/recruitment. The respondents have also cited the following judgments in support of their stand:

- a. Hon’ble Punjab and Haryana High Court in Civil Writ Petition No.13688 of 2001 wherein vide its order dated 06-12-2001 it has been observed that “*it is a settled rule of law that terms and conditions of brochure are binding and must be adhered to, by all concerned..*”
- b. Hon’ble High Court, Allahabad while dismissing the WP No.48846/2016 vide order dated 28-08-2012 has held that “*strict adherence to the terms and conditions is of paramount consideration and the same cannot be relaxed..*”
- c. The Full Bench of Hon’ble Punjab and Haryana High Court in Indu Gupta vs. Director, Sports Punjab and Anr. Vide its order dated 31-05-1999 has held that “*The cumulative effect of the above well enunciated principles of law, is that the terms and conditions of the brochure where they used peremptory language cannot be held to be merely declaratory. They have to be and must necessarily to be treated as mandatory. Their compliance would be essential otherwise the basic principle of fairness in such highly competitive entrance examinations would stand frustrated.*”

iv. The applicant has relied upon the orders of the Principal Bench of this Tribunal in OA.No.2964/2017 connected with OA.No.3377/2017 & 3287/2017 dated 23.10.2017 which was based on a different set of facts in as much as the issue involved in the said OA was about non-indication of “medium” of Examination. The Hon’ble Court had defined ‘non ticking of medium of examination’ as a minor

mistake, and had observed that these minor mistakes may not be taken as a ground for rejection of candidates. This would not apply in the present case, as the applicant has failed to put his signature at designated space on the first page of answer book. There cannot be a more major mistake than this, as signature is indispensable and crucial sign of authentication in proof of the answer book having been indeed written by the signatory. Hence, not appending the signature cannot be terms as non-essential or as a merely procedural and pardonable mistake.

- v. The left thumb impression (LTI) of the applicant affixed on the answer book as well as in the attendance sheet, cannot be verified by the Commission. This will require collection of samples of LTI as well as assigning the work to the forensic laboratories which are overburdened with criminal investigations. The Commission conducts examination for more than one crore candidates every year, and it is not possible for the Commission to apply this route in a large number of cases, wherever candidates failed to put their signature. The entire schedule of its examinations and the recruitment thereafter would never be completed if such process were to be adopted by the Commission.
- vi. The LTI of the candidates cannot replace their signatures. Each of the two are vital inputs in their individual capacity and are therefore, required mandatorily. Again, signature on the Attendance Sheet cannot be replaced with the signature on the answer book as both have got their own importance. The signature on Attendance Sheet

indicates presence of the candidate at the time of taking attendance, whereas signature on the answer book is proof that the signatory has himself written the answers.

vii. It is well settled principle of law that once a candidate has participated in any recruitment examination, then the terms and conditions/procedure of the examination cannot be questioned by him/her post facto. Showing any kind of misplaced sympathy in such cases may tantamount to treat such candidates at par with those candidates who followed the instructions strictly, which in turn would lead to loss of sanctity of the entire examination.

4. Heard learned counsels for both the parties and perused the material submitted by them in their respective pleadings.
5. The primary issue in the case in hand is whether the so-called inadvertent mistake made by the applicant, by not signing the top page of the answer sheet, as required as per the instructions, can be considered to be a minor mistake which could be condoned by the Staff Selection Commission(SSC - 2nd Respondent).
6. A careful perusal of the copy of the answer booklet indicates that it has been mentioned very clearly at the top page that 'Question Paper-cum-Answer Books not bearing Candidate's Roll No., Signature and Left-hand Thumb Impression, wherever required, will not be evaluated and / such candidates shall be awarded 'Zero' marks. Since these instructions have been clearly delineated on the first page of the Question Paper-cum-Answer Booklet itself, there is no doubt this is a mandatory requirement which has to be compulsorily followed by all

candidates. The consequences, of any candidate failing to adhere to these instructions, has also been clearly delineated. It is also a fact, as submitted by the respondents, that a total of 396 other candidates, who had similarly failed to affix their signatures on the Question Paper-cum-Answer Booklet, as required under the rules of the examination, have, as a result thereof, been awarded 'zero' marks.

7. Failure to put signatures on the Top Sheet of the Question Paper-cum-Answer Booklet, as instructed, cannot be termed as a minor mistake. It is an important input to confirm the identity of the candidate. There is also no doubt that the terms and conditions/procedures of the examination cannot be diluted or modified post facto since this would amount to altering the rules of the game to the relative disadvantage/advantage of other similarly placed candidates.
8. The judgment quoted by the applicant viz. OA.No.2964/2017 connected with OA.No.3377/2017 & 3287/2017 decided on 23.10.2017 by the Principal Bench of this Tribunal at Annexure-A9 is not strictly applicable in the present case. In that judgment, the issue involved was the failure of some of the candidates, inadvertently, in not mentioning their medium of the examination and other particulars. While allowing the said OA, the Principal Bench of this Tribunal had observed that the mistakes or lapses committed by the applicants in the case were not essential or not substantive. However, in the present case, the mistake made by the applicant by not signing the first page of the Answer Booklet cannot be termed as a minor mistake since this is crucial to verify the identity of the candidate.

9. Keeping all the above points in view, the OA is considered to be without any merits whatsoever, and deserves to be dismissed.

10. The OA is accordingly, dismissed. However, there shall be no orders so as to costs.

(RAKESH KUMAR GUPTA)
MEMBER(ADMN)

(SURESH KUMAR MONGA)
MEMBER(JUDL)

/ps/