

**Central Administrative Tribunal
Principal Bench**

OA No.3689/2015



New Delhi, this the 23rd day of June, 2021

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Karanti Goyal
R/o H. No.84, Ward No.4,
Khanauri Kalan,
District Sangrur,
Punjab 148027.

.... Applicant.

(By Advocate : Shri Pankaj Sinha)

Vs.

1. Ministry of Statistics and Programme Implementation
Through its Secretary
Sardar Patel Bhawan, Sansad Marg,
New Delhi 110 001.
2. Union Public Service Commission
Through its Chairman
Dhopur House, Shahjahan Road,
New Delhi 110 069.


... Respondents.

(By Advocates : Shri Rajnish Prasad and Shri R. V. Sinha
with Shri Amit Sinha)

: O R D E R (ORAL) :

Justice L. Narasimha Reddy :

The UPSC issued Notification dated 21.02.2015 inviting applications for selection to the posts in Indian Economics Service (IES) and Indian Statistical Service (ISS). The



applicant responded for ISS. Four posts are reserved in favour of Physically Handicapped (PH) category, and out of them two are for Visually Handicapped (VH) category. The applicant claimed reservation under the VH category. In the written test conducted by the UPSC, the applicant scored 191 marks. His name did not figure in the list of candidates to be called for interview. He filed this OA with a prayer to direct the respondents to relax the qualifying marks in each of the 6 subjects prescribed under the cut off list, dated 10.09.2015 in favour of the persons with disabilities and to consider his case for selection to the post of ISS.

2. The applicant contends that the Rules framed by the UPSC, provide for relaxation of standards at every stage in favour of PH category candidates, if adequate number of candidates are not available, but such relaxation was not provided for in his case. He further contends that the examination was held for 6 subjects, he scored well in 4 subjects, but in two of them, he scored 16 and 14 marks, and by stipulating the uniform standard of 10% marks, i.e., 20 marks in each subject for all categories including Unreserved (UR), OBC, SC/ST, and PH category candidates, the

respondents have contravened Rule 15 as well as the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

3. It is also stated that the UPSC itself has decided to reduce the standard minimum marks to 5% in favour of PH category candidates in the forthcoming selection, and in certain earlier selections.

4. On behalf of the UPSC (for short “the Commission”), a counter affidavit and additional counter affidavit, are filed. Separate counter affidavit is filed by the Union of India. It is stated that in exercise of its discretion, the Commission has stipulated 10% as minimum in the written test for all the categories and in case of PH categories, further relaxation was provided in the aggregate. They contend that while for UR and other categories of candidates, the minimum aggregate stipulated by the Commission is 286 marks, in case of PH candidates, it was reduced to 179 and thereby the rule was complied with.



5. We heard Shri Pankaj Sinha, learned counsel for the applicant, and Shri Rajnish Prasad, learned counsel for the Respondent No.1 and Shri R. V. Sinha with Shri Amit Sinha, learned counsel for the Respondent No.2.

6. The status of the applicant as VH category is not in dispute. He was one of the candidates for selection to the post of ISS. On finding that his application is otherwise in order, he was issued a Hall Ticket and he took part in the written examination. He scored 191 marks in aggregate, and in two subjects he scored 16 and 14 marks. The applicant felt aggrieved by the non inclusion of his name in the list of candidates to be subjected to personality test.

7. From a perusal of the replies filed by the UPSC as well as the Union of India, and the material placed by them before us, it is evident that the relaxation was provided in favour of the PH candidates by reducing the aggregate to 179, as against 186 stipulated, for the other categories. The applicant did not get any benefit on account of this relaxation because his aggregate was 191. He was not included in the list of



candidates to be interviewed on the ground that he scored less than 10% of marks in two subjects.



8. In their counter affidavit, the UPSC stated that 10% minimum was stipulated for all categories of candidates, i.e., UR, OBC, SC/ST and PH category candidates. In other words, the same yardstick was applied to all the candidates. The justification pleaded for not extending the benefit of relaxation in favour of PH category candidates is that 10% is the rock bottom to ensure the minimum standard for the post and no further relaxation can be granted. The reasoning may appear to be sound and appropriate. However, if one takes into account, the purport of Rule 15, it becomes evident that the Commission has recognized its obligation to extend special benefit to PH candidates. Rule 15 of the reads as under:-

“15. The prescribed qualifying standard will be relaxable at the discretion of the Commission at all the stages of examination in favour of physically disabled candidates in order to fill up the vacancies reserved for them. In case, however, the physically disabled candidates get selected on their own merit in the requisite number at the qualifying standards fixed by the Commission for General, SC, ST and OBC category, extra physically disabled candidates i.e. more than the number of vacancies reserved for them, will not be recommended by the Commission on the relaxed standards.”

9. The obligation placed upon the Commission is clearly evident. It needs to be observed that relaxation is to be made at “all the stages of examination” in favour of physically disabled candidates. In other words, the relaxation cannot be confined to any particular stage. In this case, it was confined to the stage of aggregate.

10. The plea that 10% is rock bottom to maintain standards cannot be sustained. It is also not supported by the record. For example, in case of selection for the Combined Geo-Scientist and Geologist Examination, 2014, the standards stipulated are as under:-

“Combined Geo-Scientist and Geologist Examination, 2014

Minimum qualifying standard/marks secured by the last qualified candidate for call of interview (out of 700 marks):

S. No.	Category	General	OBC	SC	ST	PH-1	PH-3
1.	Geologist	163	120	119	111	89	80
2.	Geophysicist	142	125	91	99		
3.	Chemist	213	179	155	93	---	71
4.	Jr. Hydrogeologists (Scientist-B)	212	181	154	---	---	---

Subject to minimum 10% marks in each paper for General, OBC, SC & ST and 5% in each paper for PH-1 and PH-3.



11. Similarly, for Indian Engineering Service Examination, 2013, the minimum stipulated standard are as under:



Name of Discipline	Minimum qualifying standards in the written examination (Out of 1000 marks)					
	General	OBC	SC	ST	PH-1	PH-3
Civil Engineering	391	373	315	293	158	158
Mechanical Engineering	442	408	345	325	238	229
Electrical Engineering	458	429	357	342	190	326
Electronics & Telecommunication Engineering	515	489	433	452	347	

Subject to General & OBC candidates having secured minimum 15% marks, SC & ST candidates minimum 10% marks and PH candidates minimum 5% marks in each of the conventional papers.

12. In fact, for IES 2014, the minimum marks stipulated in the written test, is 15% for General and OBC, 10% for SC & ST and 5% for PH category. When such is the discretion exercised and stipulation made by the UPSC in respect of various services, it is difficult to accept the contention that the 10% stipulated for all the categories would accord with law. In our view, the stipulation of same minimum marks in individual subjects for all the categories does not accord with Rule 15 of the Rules. Apart from conferring discretion, the Rule places an obligation on the UPSC if one takes into account, the

provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The Special circumstance in this case is that one post remained unfilled for want of qualified candidate.

13. We, therefore, dispose of the OA directing the UPSC to exercise its discretion under Rule 15 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, in favour of PH category candidates, on the lines, adopted for selection of IES and Geo Scientist and Geologist. The exercise in this behalf shall be completed within a period of eight weeks from the date of receipt of a copy of this order. We further direct that the post which remained unfilled in the said selection shall not be carried forward for subsequent selections. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pj/jyoti/ns/dsn

