

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

Dated: 26.5.95

Original Application No: 256 of 1993  
Connected with ~~0000295000001993~~, D.A. 424 of 1993,  
D.A. 561 of 1993, D.A. 296 of 1993, ~~0000300499999~~  
~~00000~~, D.A. 687 of 1993 and D.A. 236 of 1993.

1. Satendra Tripathi  
S/O Shri Bashisht Tripathi  
R/D 81, A.N.Jha Hostel, Allahabad.
2. Singh Rajesh Narendra  
S/O Shri Narendra Singh  
R/D 17, A.N.Jha Hostel,  
Allahabad.
3. Vinod Prasad  
S/O Late Sri Parashu Ram  
R/D, Vill. Rataura, P.O. Rataura,  
District Chamoli (U.P.)
4. Anand Swaroop  
S/O Shri Yogendra Prasad Srivastava,  
R/o 17, A.N.Jha Hostel, University of  
Allahabad.
5. Ravi Prakash Srivastava  
S/O Shri R.P.Lal  
R/C 13-A/31, Muir Road, Allahabad.
6. Sanjay Kumar Singh  
S/O Shri S.N.Singh,  
R/D 7/20 Liddle Road, George Town,  
Allahabad.
7. Anup K. Chaturvedi  
S/O Dr. V.N.Chatrvedi,  
R/D 85 A.N.Jha Hostel, University of  
Allahabad.
8. Santosh Kumar Shukla  
S/O Shri R.C.Shukla  
R/D Research Scholar,  
Botany Department, Allahabad  
University.

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9. Ajit Kumar Pandey  
S/O Shri Ram Vijai Pandey  
R/O 66, S.S.L. Hostel, University  
of Allahabad.
10. Vinit Tiwari  
S/O Shri S.P.Tiwari  
R/O 65 S.S.L. Hostel, University  
of Allahabad.
11. Ashutosh Sharma  
S/O Shri K.P.Sharma,  
R/O 55, S.S.L. Hostel, Allahabad  
University.
12. Mahendra Prasad Chaube  
S/O Shri Laxman Prasad Chaubey  
R/O 107/7, Chaitanya Marg, Meerapur,  
Allahabad.
13. Sudhakar Prasad Pandey,  
R/O, 7, Bandh Road, Allenganj,  
Allahabad.
14. Krishna Kant Sharma  
S/O Shri R.K.P.Sharma  
R/O 137, S.S.L. Hostel, University  
of Allahabad.
15. Rajiv Kumar  
S/O Late Giri Raj Kishore,  
R/O 49, M.G. Marg, Civil Lines,  
Allahabad.

Contd....3/-

16. Lalit Mishra  
s/o. Shri R.R.Mishra,  
R/o. 6, Dr. A.N.Jha Hostel,  
University of Allahabad.  
... Applicants.

By Advocates Shri Shailendra

Versus

1. Union of India through Ministry of Grievances and Pension Department of Personnel and Training, New Delhi.
2. Union Public Service Commission, Shahjahan Road, Dhawalpur House, New Delhi, through its Secretary.

.... Respondents

By Advocate Shri Satish Chaturvedi

CONNECTED WITH

1. O. A. No. 236 of 1993

Sanjiv Ratan Malviya, son of Shri R.P.Malviya, resident of 819/66, Chaitanya Marg, Meerapur, Allahabad.

.... applicant.

By Advocate Sri Bashishtha Tiwari.

Versus

1. Union Public Service Commission, Dhaulpur House, Shahjana Road, New Delhi.
2. Union of India through the Secretary

Ministry of Public Grievances and Pension  
(Department of Personnel and Training),  
Govt. of India at New Delhi.

..... Respondents.

By Advocate Shri Satish Chaturvedi.

... AND ...

2. O. A. No. 424 of 1993

1. Brijesh Kumar son of Ram Lal Srivastava,  
R/o. D.54, New Hostel,  
Indira Gandhi National Forest Academy,  
New Forest, Dehradun.  
date of birth 20.5.1965
2. Anirudh Gupta son of Deoki Nandan Gupta,  
R/o. 2/6, Jawahar Nagar, Kanpur  
date of birth 30.7.67
3. Krishna Dev Tripathi,  
son of Buddhi Sagar Tripathi,  
R/o. WC-18, Shiwali Ka Hostel,  
I.I.T.Delhi.  
date of birth 20.7.65
4. Praveen Singh son of Kalyan Singh,  
Chauhan r/o.S.C.7, Vidhyachal Hostel,  
I.I.T.Delhi.  
date of birth 7.1.65.
5. Rajesh Kumar Agrawal son of Ram Krishna  
Agrawal r/o. S.D.Jain Hostel,  
University of Allahabad.  
date of birth 30.6.65

OA 561/93

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6. Manish Chandra Umarao  
son of G.P.Umarao  
R/o.G.N.Jha University of Allahabad.  
Dt. of birth 5.1.65.
7. Arun Kumar Singh son of Narendra  
Bahadur Singh r/o. D.L.L.Colony, 1775  
Type-II, 9, Mayor Road, Allahabad.  
date of birth 5.2.65
8. Km. Neelan Singh D/o. Indrapati Singh,  
R/o. 56, S.N.Hostel, University of  
Allahabad, Allahabad.  
date of birth 15.3.66
9. Sujoy Mujamdar Son of Dr. P.Majumdar,  
B.108, Chitrangan Park, New Delhi.
10. Vivek Saxena son of Hari Mohan Saxena,  
C-116, Sector-H, Harsh Vihar,  
Aligarh, Lucknow.  
.... applicants.  
by Advocate Shri Rajendra K. Pandey.

versus

1. Union of India through Ministry of  
Personnel Public Grievances and Pension  
Department and Training, New Delhi.
2. Union Public Service Commission,  
Shahjahan Road, Dhawalpur House,  
New Delhi, through its Secretary.

.... Respondents

By Advocate Sri Satish Chaturvedi.

... AND...

3. O.A.NO. 561 of 1993

1. Arvind Mohan son of Sri Pyare Mohan Srivastav

C/o. Sri N.Lal 84, Allenganj, Allahabad.

2. Sudhanshu Tripathi, son of Sri Banchidhar Tripathi, C/o. Sri N.Lal, 84, Allenganj, Allahabad.

..... Applicants

(by Advocate Shri N.Lal)

Versus

1. UNION of India through Ministry of Grievances and Pension Department of Personnel and Training, New Delhi.

2. Union Public Service Commission, Shahjahan Road, Dhawalpur House, New Delhi, through its Secretary.

..... Respondents

(By Advocate Shri Satish Chaturvedi)

4. O.A. No. 296 of 1993

1. Raj Kumar Gupta, son of Shri Ram Bharat Gupta 83, D.J.Hostel, University of Allahabad.

2. Vatsal Nath, son of Sri Devendra Nath, R/o. 18/22, Clive Road, Allahabad.

3. Girish Chandra Khare, son of Sri Ram Gopal Khare, Resident of C/o. Dr. S.C.Agarwal, B-7, Teachers Colony, Chatham Lines, Allahabad-211002.

4. Deep Dubey son of V.S.Dubey, resident of Bans Mandi, District Allahabad.

5. Pushkar Bjpai s/o. Sri R.N.Bajpai, 1/67, Wazir Hasan Road, Lucknow.

... Applicants.

(by Advocate Sri Saumitra Singh)

Versus

1. Union of India, through Ministry of Grievances and Pension, Department New Delhi.
2. Union Public Service Commission, Shahjanpur Road, Dhawalpur House, New Delhi, through its Secretary.

....Respondents

(By Advocate Sri Satish Chaturvedi)

5. O.A. No. 687 of 1993

1. Vijay Sharma son of Har Swarup Sharma, r/o. 25, G, Tagore Town, Allahabad.
2. Meenashi Negi d/o. A.S.Negi, W/o. Vijay Sharma, R/o. 25-G, Tagore Town, Allahabad.
3. Arbab Ahmad Khan son of Aftab Ahmad Khan, R/o. B 50/G.I.B. Nagar, Karel, Allahabad.
4. Rashimi Srivastava D/o. Satish Chandra Srivastava R/o. 254, Civil Lines II, Sultanpur.
5. Aqeel Ahmad son of Shabbir Ahmad. r/o. Gora Bazar, Ghazipur.



6. Rajesh Kumar Singh son of Ramakant Singh,  
R/o. Gora Bazar Ghazipur.

7. Iftikhar Ahmad son of Shabbir Ahmad  
R/o. Gora Bazar, Ghazipur.

8. Sudhir Kumar Jati  
son of Govind Chand Jati  
Resident of Mohalla Peer Nagar,  
Ghazipur.

... applicants.

(By Advocate Sri R.K.Pandey &  
Shri Shailendra)

Versus

1. Union of India through Ministry of  
Personnel Public Grievances and Pension,  
Department and Training, New Delhi.

2. Union Public Service Commission,  
Shahjahan Road, Dhawalpur House,  
New Delhi. through its Secretary.

... Respondents.

(By Advocate Sri Satish Chaturvedi)

C Q R A M.

Hon. Mr. T.L.Verma, Member-J.  
Hon. Mr. K.Muthukumar, Member-A.

O R D E R

By Hon'ble Mr. T. L. Verma, Member-J.

Common questions of law and facts are involved in O.A. Nos. 256/93, 295/93, 424/93, 561 of 93, 296/93, 481/93, 687/93 and 936/93, hence, have been heard together and are being disposed of by this common judgement.

2. The applicants in O.A. No. 256/93 and in connected O.A.s have filed these applications for quashing notification (Annexure-3) to the extent it curtails the upper age limit from 33 years to 28 years and reduces the number of attempts from 5 to 4 for the general candidates for appearing at the Civil Services Examination, 1993 and for issuing a direction to the respondents to accept the application forms of the applicants and allow them to appear in Civil Services Examination 1993.

3. By interim orders issued on different dates, the respondents were directed to permit the applicants to appear in Civil Services (Preliminary Examination) 1993 provisionally subject to final decision of the case provided their applications have been submitted and received and are otherwise eligible to appear at the said examination. The respondents moved the Supreme Court against the interim orders passed by this Tribunal in the aforesaid applications. The Supreme Court has disposed of the Civil Appeal filed by the respondents with the following observations;

"As the matter is of some importance, we direct the Tribunal to dispose of the main matter as expeditiously as possible. In the meanwhile, even if the respondents are permitted to take the final examination, their final results and selection shall be kept in abeyance till the disposal of the main matter by the Tribunal. No costs."

4. The facts giving rise to these applications briefly are that Union Public Service Commission published a notice in Employment News (special supplement) dated 16-26.1.93 for preliminary examination for recruitment to Civil Services (Annexure-3). The upper age limit for appearing at the examination was fixed at 28 years on 1.8.1993 and the number of attempts for appearing at the examination were limited to four.

  
The applicants in all the applications have crossed the age of 28 years on 1.8.1993 and have availed 4 attempts. It is stated that in 1979, the upper age limit was fixed at 28 years and the number of attempts were limited to three. The position remained the same between 1980 to 1984. In 1985 however, the upper age limit was reduced to 26 years but the number of attempts remained four as before. The decision to reduce the upper age limit from 28 to 26 years however was given effect to <sup>in</sup> 1987. The upper age limit for appearing at the examination remained 26 with number of attempts limited to four till 1989.

In 1990 however, the upper age limit was raised from 26 to 31 years and it was made clear that the relaxed upper age limit of 31 years was applicable only to the examination held in the year 1990 and from 1991 the upper age limit would be 28 years.

A fourth attempt was given to the candidates appearing at Civil Services Examination 1990.

The upper age limit for the year 1991 was brought down to 28. The number of attempts, however, remained 4. The respondents again raised the upper age limit for appearing at the Civil Services Examination to 33 for Civil Services Examination 1992 and the number of attempts was also raised from 4 to 5 vide notice published in Employment News dated 11/17.1.1992 (Annexure-2).

The relevant provision with regard to the number of attempts reads as follows;

Every candidate appearing at the Civil Services Examination who is otherwise eligible, shall be permitted five attempts at the examination, irrespective of the number of attempts he has already availed of at the IAS, etc. Examinations held in previous years. The restriction shall be effective from the Civil Services Examination held in 1979. Any attempt(s) made at the Civil Services (Preliminary) Examinations held in 1979 and onwards will count as attempt(s) for this purpose. The fifth attempt now permitted is available for the 1992 examination only

Provided that this restriction on the number of attempts will not apply in the case of Scheduled Castes and Scheduled Tribes candidates who are otherwise eligible.

From the above, it would appear that it was made clear that the increase in the number of attempts was confined to the examination 1992 and for the examination for the year, 1993, the upper age limit, as already been noted above, was brought down to 28 years and the number of attempts reduced to 4. The grievance of the applicants is that relaxation in the number of attempts for appearing at the Civil Services Examination 1992 has prejudicially affected their interest inasmuch as they were pitted against those who were more mature and experienced by virtue of their having taken more attempts. The other grievance of the applicants is that irrational and sudden change in the maximum age limit and number of attempts available has adversely affected the career planning of the applicants. The impugned decision of the respondents has also been assailed on the ground of infraction of Article 14 & 16 of the Constitution.

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5. The respondents have resisted the claim of the applicants. In the written reply filed on behalf of the respondents, it has been stated that

that the change in the upper age limit and the number of attempts was brought about by the respondents on the basis of its past experience and recommendations of the experts' bodies by taking a policy decision. The impugned decision is neither arbitrary nor discriminatory. Hence, it is stated that the applicants have no cause of action.

6. It may be mentioned at the very outset that Shei S.C.Budhwar, counsel for the applicants in O.A. No. 256/93 and Shri R.G.Padia counsel for the applicant in O.A. No. 424/93 appeared on the date of hearing. In other O.As none appeared for the applicants. Shri Satish Chaturvedi appeared for the respondents.

7. Before we advert to the arguments advanced by the learned counsel for the parties, it is pertinent to mention that the Principal Bench of the Administrative Tribunal in O.A. No. 303/94 and M.A. No. 451/94 has held that:-

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The examinations conducted each year fall under separate categories. The candidates appearing in the examination of a particular year constitute a well defined class. The eligibility rules set for examination 1992 operate alike for all persons under like circumstances. So will be the case with the examination 1994. Hence, the applicants cannot complain of denial of equal protection on the ground that a different set of Rules of eligibility were applied to the examination 1992.

In the C.A. before the Principal Bench, the applicants have challenged the validity of the same notice which has been impugned in the case at hand. This decision of the Principal Bench has been followed by this Tribunal in C.A. No. 166/94 and 23 connected cases. In addition to the above in C.A. No. 642/92 and 847/92, the upper age limit and the number of chances prescribed for Civil Services Examination 1992 was challenged before the Principal Bench of the Central Administrative Tribunal. The applications were dismissed at the admission stage itself on the ground that the decision to fix the age limit and the number of chances is within the domain of respondents concerned. The Hyderabad Bench of the Central Administrative Tribunal in C.A. 64/92 decided on 4.2.92 dismissed the C.A. turning down the prayer wherein similar reliefs had been claimed.

From the different decisions referred to above, it emerges that the consistent view taken so far by this Bench of the Tribunal and the Principal Bench is that the examinations conducted each year fall under separate categories and that the decision as to the maximum age limit and the number of attempts is within the domain of the Government and that the Court should not generally interfere with the same unless it is shown that the decision is irrational, perverse, arbitrary and discriminatory.

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8. Shri S.C.Budhwar, learned counsel for the petitioners in O.A. No. 256/93 and Dr. R.G.Padia learned counsel for the applicants in O.A. 424/93 have very strenuously argued that each year's examination is not a separate unit in the instant cases on account of the fact that unlike other recruitments held annually, were within the age span (between maximum and minimum age limit) the candidate could take all such number of attempts as they desire, in case of All India Services Examination, the number of attempts are limited and lesser than what they would otherwise have been entitled to in case they could avail chances in all examination held during their eligibility span. It was submitted that the variance between the eligibility attempts and the limited number of examinations which the candidate could avail within the eligibility span necessitated career planning by the candidate at the stage of his entry in the eligibility span. This aspect of the career planning, it was submitted has not been taken into account by the Division Bench which decided O.A. No. 303/94 and M.A. 451/94 and this Bench of the Tribunal in O.A. 166/94 and connected cases. The view taken by the Principal Bench and this Bench of the Tribunal, therefore, it was submitted, requires reconsideration.

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9. According to the learned counsel the eligibility span of any age group constitutes as one single unit and not each examination as has been held by the two Benches of the Central Administrative Tribunal referred to above. It was stated that according to the Kothari Committee Report, implemented in Civil Services Examination everyone was given 3 attempts irrespective of number of attempts availed before, within the prescribed age limit. Again when the upper age limit was curtailed from 28 years to 26 years in 1985, the implementation of the decision was suspended for 2 years so that the persons within the age group of 25 to 27 years in 1984, 1985 and 1986 could take their quota of 3 attempts. Similarly in 1990 when the Government increased the upper age limit from 26 to 31 years and number of attempts from 3 to 4 had ensured that in 1991, the upper age limit is 28 years with 4 attempts so that the existing block of 1990 could compete within themselves for the 4th attempt by passing the year, 1990 in which a large number of

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senior students appeared. It was submitted that at every stage whenever there was change in the policy with regard to the upper age limit and the number of attempts, the aspect of career planning was taken into account but in 1992 by making a one time relaxation in upper age limit to 33 years and number of attempts to 5 and then again reverting back the old policy of 28 years and 4 attempts in 1993, it was argued, the applicants were forced to compete with a large number of senior candidates. In support of this contention it was stated that the total number of candidates who applied in 1991 was approximately 1.92 Lakhs whereas in 1992, the year in which the maximum age limit was raised to 33 years and number of attempts to 5, the total number of candidates was 2.30 Lakhs approximately and again in 1993 when the maximum age limit was reduced to 28 years and the number of chances to 4, the number of candidates slumped down to 2.17 Lakhs. The applicants who availed their 4th attempt in 1992, it was submitted, had to compete with a greater number of candidates than ~~from~~ their counter parts in 1991 Civil Services Examination. It was submitted that the one time relaxation given in 1992 has ~~had~~ adversely affected the prospects of these applicants and as such by not allowing them the same benefit provisions of Article 14 & 16 of the Constitution have been violated.

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We have considered the argument of the learned counsel for the applicants that the eligibility span of the age group constituting as one single unit and not each examination as has been held by the two Benches of the Administrative Tribunal but we are unable to persuade ourselves to accept the same. It is a matter of common knowledge that before the U.P.S.C. invites applications from eligible candidates for appearing at the Civil Services Examination, the Department of Personnel works out the number of vacancies to be filled in that particular examination and sends the same to the U.P.S.C. for taking steps for filling up the vacancies. The vacancies as are notified only are filled up on the basis of the result for which the examination is held in that particular year. The U.P.S.C. recommends names of the candidates on the basis of merit for appointment against those vacancies. After the posts are filled up on the basis of the recommendations made by the U.P.S.C. the chapter is closed so far as the examination held in that particular year is concerned. Fresh calculations are made for filling up the vacancies of next year and a examination is held after issuing notice in the Employment News and other National Dailies inviting applications from the eligible candidates. This process is repeated year after year. In each years' notice eligibility conditions as are spelt out for general and reserved candidates and

only those who satisfy the eligibility conditions given in that particular year are allowed to appear at the examination. It would thus appear that the system of inviting applications and holding examination itself makes it abundantly clear that the candidates appearing in the examination of a particular year constitute specified well defined class. We are, therefore, in full agreement with the decision of the Principal Bench in O.A. No. 303/1994 and this Bench of the Tribunal in O.A. No. 166/1994 and connected cases that the examination conducted each year fall under separate categories.

11. The argument of the learned counsel for the applicants that making one time relaxation in upper age limit to 33 years and number of attempts to 5 in 1992 has adversely affected the career planning of the applicants as they were pitted against large number of experienced candidates, also does not cut much ice. The learned counsel for the applicants have, at the time of argument stated that a large number of candidates in the age group of 31,33 succeeded in getting into the Civil Services in their 5th attempt to support their contention. In absence of authentic documents, it is not possible to place absolute reliance on the statistics given by the learned counsel at the time of argument. Assuming however, for the sake of argument that the statistics given by the

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counsel is correct then also in absence of the statistics showing the number of candidates who had made into the Civil Services in their first attempt, no conclusion as suggested by the counsel for the applicants can be drawn. If the argument of the counsel for the applicants is accepted then there will be no end of it because every year, the first timers will be pitted against some of those who are taking 4th attempt and the first timers will necessarily will be pitted against those who are appearing in their 4th attempt and this process will continue so long this system of examination lasts.

12. The fallacy of the theory of ~~assured~~ career planning canvassed by the learned counsel will also become apparent from the fact that the number of vacancies available and the number of candidates appearing in Civil Services may drastically vary from year to year throwing all the calculations of the candidates to wind. The competition will be ~~become~~ stiffer when large number of candidates chase lesser number of vacancies. But the position, however, may be different when comparatively lesser number of candidates appear for the same number of vacancies. The candidates aspiring for appointment in Civil Services cannot be allowed to come forward with a plea that they had in fact planned their career assuming that particular number of vacancies will be available in a particular year but their calculations have gone wrong because the ..... pg. 16/-

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number of vacancies notified were not according to their anticipation, as a result, they have been put to dis-advantage vis-a-vis candidates who had the advantage of competing with lesser number of candidates. We are unable to persuade ourselves to accept the contention of the learned counsel. In our view, career planning really means that it should be planned in such a way that the aspirants make it to the Civil Services in their first attempt itself so that they may have comparatively large number of years to serve so that they may reach to the top.

13. The one time relaxation by <sup>increasing</sup> ~~extending~~ the upper age limit to 33 years and the attempt 5

was given for Civil Services Examination 1992.

It was made clear in the notice published in

Employment News dated 11/17.1.1992 that the

relaxation in the maximum age limit and the

number of attempts confined to the examination

1992. In view of our finding that examinations

conducted each year fall ~~not~~ under separate

categories, the infraction, if any of the

provisions of the Article 14 & 16, --- committed

pertained to Civil Services Examination 1992 and validity of the said examination could

have been challenged on that ground. The infraction,

if any of the provisions of constitution in holding

Civil Services Examination 1992 will not extend any

right for claiming similar benefit to the

examinees of Civil Services Examination 1993.

In that view of the matter also, the applicants cannot be said to have any claim for extention of the one time relaxation in the number of attempts and the age limit made available for Civil Services Examination 1992 for the examinees of Civil Services Examination 1993 or thereafter.

14. Following cases have been relied upon by the learned counsel for the applicant of O.A. No. 256/93 and 424/93 in support of their contentions as has been mentioned above.

- i) Singara Singh & Ors. Vs. State of Punjab & Ors. - AIR 1984 SC 1499.
- ii) Vishnu Das Hundu Mal etc. Vs. State of Madhya Pradesh & Ors. - AIR 1981 SC 1981 page 1636.
- iii) Khalid Ansar Haque & Ors. Vs. Aligarh Muslim University, Aligarh - 1996 Education Cases page 244.
- iv) Committee of Management Atarra Post Graduate College Vs. The Vice Chancellor, Buhdail Khand University - AIR 1990 SC page 2056.
- v) Mohan Kumar Singhania & Ors. Vs. The Union of India & Ors. - AIR 1991 SC 1150.

15. In Singara Singh's case, the State of Punjab initiated disciplinary action and dismissed about 1100 members of the force on the ground that they had participated in an agitation which was impermissible under the rules governing the

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discipline in the Police Force of the State of Punjab. A number of criminal prosecutions were filed against the participants in the agitation. Some of the members of the Police Force who were dismissed from service filed writ petitions in the High Court of Punjab and Haryana but they were dismissed. After the dismissal of the writ petitions, about 1000 members of the Police Force were reinstated and criminal cases pending against some of them were withdrawn. A committee constituting of members of the senior rank of the police force was constituted by the State Government to review the cases of dismissed agitators and reinstatement followed on the recommendation of the committee. Of the 1100 dismissed agitators, 1000 were reinstated. Those who were not reinstated filed writ petition in the High Court. The High Court dismissed the petitions. The Supreme Court quashed the order passed by the High Court and held that the petitioners must receive the same benefit which those reinstated received in the absence of any distinguishing feature in their cases.

16. In vishnu Das Hundumal's case, the petitioners were holders of stage carriage, permit granted to them under the MV Act and were operating stage carriages on the routes for which permits were granted. The M.P. Road Transport Corporation framed scheme No. 50 M for nationalisation of routes. Under the scheme, certain existing operators

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were allowed to operate on over laping portions of notified routes while the petitioners were denied such facility. The Supreme Court directed the respondents to give the similar facility to the petitioners also.

17. In Khalid Ansari's case, the petitioners were not allowed to appear at the examination on the ground that there was short fall in their attendance where-as some others who were similarly situated were allowed to appear at the examination after condoning the shortage in their attendance. The Allahabad High Court held that the authorities acted arbitrarily in ~~condoning~~ condoning shortage in attendance of some, which resulted in benefit to few and denial to others who were similarly situated and directed the respondents to permit the petitioners to appear in the supplementary examination of the respective year.

18. In the case of Mamta Coal & Coke Private Limited, the act of the respondents in not allotting rakes/waggons to the petitioners was challenged in the Allahabad High Court on the ground of discrimination. The High Court allowed the writ and held that the respondent No. 3 acted in arbitrary and discriminatory manner in not considering the allocation of rakes/waggons to the petitioners.

19. In all the cases relied upon by the learned counsel for the applicants, the act complained of has been held to be discriminatory and arbitrary because similarly situated persons were differently treated. The case at hand however, is different. In view of our finding that the examinations conducted each year constitutes a specific and separate well defined class, the decisions referred to above have no application to the facts of the present case. The applicants who appeared at the Civil Services examination 1992 had exhausted all the chances permissible under rules and had become over age for appearing at the Civil Services Examination 1993. It is not the case of the applicant that others who were similarly placed were allowed by the respondents to appear at the Civil Services examination 1993 so as to attract the application of Article 14 & 16 of the Constitution. Hence, the applicants cannot complain of denial of equal opportunity on the ground that a different set of rules of eligibility were applied to the examination 1992.

20. The learned counsel for the applicant relying on the decision of the Supreme Court in Km. Srilekha Vidyarthi etc. Vs. State of U.P. & Ors. reported in AIR 1991 SC 537 has urged that a policy decision which is arbitrary and irrational can be judicially reviewed under Article 14 of the Constitution. This decision was referred to

counter the argument of the learned counsel for the respondents that fixing eligibility criteria for civil Services was a policy matter and as such was not subject to judicial review. We have perused the decision relied upon by the learned counsel for the applicants. In the aforesaid case, all District Governments counsel in the State of U.P. were removed enblock. The said decision of the Government was challenged before the High Court. The writ petitions were dismissed by the Allahabad High Court. The Supreme Court quashed the judgement and order of the Allahabad High Court and held that;

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In our opinion, the wide sweep of Art. 14 undoubtedly takes within its fold the impugned circular issued by the State of U.P. in exercise of its executive power, irrespective of the precise nature of appointment of the Government counsel in the districts and the other rights, contractual or statutory, which the appointees may have. It is for this reason that we base our decision on the ground that independent of any statutory right, available to the appointees, and assuming for the purpose of this case that the rights flow only from the contract of appointment, the impugned circular, issued in exercise of the executive power of the State, must satisfy Art. 14 of the Constitution and if it is shown to be arbitrary, it must be struck down. However, we have referred to certain provisions relating to initial appointment, termination or renewal of tenure to indicate that the action is controlled at least by settled guidelines, followed by the State of U.P. for a long time. This too is relevant for deciding the question of arbitrariness alleged in the present case.

21. The decision of the Supreme Court referred to above, in our opinion, does not lay down law to the effect that a policy decision of the Government can be subjected to judicial review.

On the other hand, the Supreme Court in its recent judgement in All India ~~Ex-Servicemen~~ Commissioned Officers Welfare Association and Ors. Vs. The Union of India & Ors. reported in Judgements Today 1994 (6) page 265 has held that;

We do not, however, view this matter as one of classifying the aforesaid ex-servicemen in two categories mentioned by Shri Kapoor. According to us, a policy decision was taken to give some benefit to those servicemen who had stood with the people when the country was invaded and has rendered useful service during the emergency in question. How much benefit and in what shape it ought to have been given are not matters on which courts can have any say, these are exclusively for the executive to decide. The Courts come into picture in such policy matters if the same be either illegal or irrational or where to suffer from procedural impropriety, as reiterated recently by this Court in Tata Cellular Vs. Union of India, JT 1994 (4) SC 532. We do not find any such infirmity in the policy at hand.

22. We do not view the decision of the Govt. of India in reducing the maximum age limit to 28 years and number of chances to 4 for appearing at the Civil Services Examination 1993 as irrational or arbitrary. That being so, and having regard to the decision of the Supreme Court referred to above in Tata Cellular Vs. Union of India reported in Judgements Today 1994 (4) SC 532; we hold that this Tribunal has no say in the matter. The Supreme Court in Tata Cellular case has held as follows:-

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It is not for the court to determine whether a particular policy or particular decision taken in the fulfilment of that policy is fair. It is only concerned with the manner in which those decisions have been taken. The extent of the duty to act fairly will vary from case to case. Shortly put, the grounds upon which an administrative action is subject to control by judicial review and can be classified as under:-

(i) Illegality: This means the decision maker must understand correctly the law that regulates his decision making power and must give effect to it.

(ii) Irrationality, namely, Wednesbury Unreasonableness.

Procedural impropriety.

(iii) Procedural impropriety

In all these cases, the test to be adopted is that the Court should, consider whether something has gone wrong of a nature and degree which requires its intervention.

23. The basic purpose of fixing maximum age limit and restricting number of attempts is to select best talent for running the administration of the country. The impugned decision of the Government of India, <sup>are</sup> ~~we/satisfied~~ does not militate with the basic purpose of selection to the Civil Services on the basis of competitive examinations. We, therefore, find no reason to interfere with the policy decision taken by the appropriate authority with regard to the fixation of the minimum age limit and the attempts for appearing at the Civil Services Examination.

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24. - In view of the above, we are unable to grant the relief as prayed for in these applications and the same are dismissed. No costs.

(K. MUTHUKUMAR)  
MEMBER (A)

(T. L. V. VERMA)  
MEMBER (J)