

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No.339/2002

THURSDAY, THIS THE 12TH DAY OF DECEMBER, 2002

HON'BLE MR. GOVINDAN S. TAMPI .. MEMBER (A)

HON'BLE MR. A.K. BHATNAGAR .. MEMBER (J)

Arun Kumar Singh,
S/o Shri R.N. Singh,
R/o C/o Shri R.N. Singh,
A-56, Mehdauri Coloney,
Teliarganj, Allahabad.
Present address 120A(1) Rasulabad,
Allahabad.

Applicant

(By Advocate Shri R.N. Singh)

Versus

1. Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi, through its Secretary.

2. Union of India, through
through Secretary,
Ministry of D-OPT,
New Delhi.

Respondents

(By Advocates S/Shri S. Chaturvedi and
R.C. Joshi)

ORDER

Hon'ble Mr. Govindan S. Tampi, Member (A) :

Non-selection of the applicant in Civil Service
(Main) Examination, 2001, is under challenge in this O.A.

2. Heard Shri R.N. Singh, learned counsel for the
applicant and S/Shri Pankaj Srivastava and A.M. Tripathi,
learned proxy counsel for the respondents (for S/Shri Satish
Chaturvedi and R.C. Joshi).

3. The applicant (Shri Arun Kumar Singh), a
Physically handicapped individual with 50% disability
cleared the Civil Services (Preliminary) Examination, 2001

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and took the (Main) Examination with Roll No.30146. Following the receipt of his letter dated 24.9.2001, with a medical certificate indicating the physical disability, Union Public Service Commission (UPSC - the respondents) on 4.3.2002, wanted certain additional information which was furnished on 7.3.2002 which would have been received latest on 11.3.2002. On UPSC, telegram dated 15.3.2002, that the particulars have not been received photostat copy of the letter dated 7.3.2002 was sent on 18.3.2002. Thus, the evidence relating to physical handicap of the applicant was duly furnished to UPSC in time. Still when the Civil Services (Mains) results were declared on 27.3.2002, the applicant was not among those who had qualified to appear for the interview, according to the applicant, in spite of his having produced the necessary evidence in support of his physical handicap, the respondents have not considered his case on the requisite relaxed standards. The action of the respondents was illegal and arbitrary. Hence, this O.A.

4. Grounds raised in this O.A. are that :-

a) the applicant's certificate issued by the competent authority could not have been brushed aside stating it was not in the required format;

b) his having sent the certificate in proper form prior to 14.3.2002, there was no ground for not considering him; and

c) the non-consideration was totally arbitrary.

5. On 20.4.2002, when the O.A. had come up for admission, the Tribunal had granted an interim relief that if ^{by his} had qualified in the examination, he be permitted

to appear for the interview, with final results being kept pending till the O.A. is finally disposed of. U.P.S.C. have informed the applicant on 3.5.2002 that as he had failed to obtain the minimum qualifying marks in compulsory English, his other papers have not been evaluated. Following this, the applicant has filed M.A. No.2398/2002 seeking directions for production of the applicant's answer papers before the Tribunal. The said M.A. is also being disposed today along with the O.A.

6. In the reply filed on behalf of U.P.S.C., the respondent No.1, the pleas raised by the applicant are stoutly rebutted. It is indicated that in terms of Rule 22 of the Civil Services Examination Rules, 2001, physically handicapped candidates with more than 40% handicap ^{was} ~~was~~ permitted the benefit of reservation for which certain information was required. The applicant was one among the 99 such candidates who were asked to send the requisite information on 4/5.3.2002, and reminded on 18.3.2002. His response was received and he was also given the benefit of relaxed standards. However, the finalisation of results was guided, among others, by the provisions Notes (i) and (ii) below Section B (Main Examination) below Appendix I Section II of the Rules indicating that papers on Indian languages and English, which will be of matriculation standard were of qualifying nature and that papers on Essay, General Studies and Optional subjects of only such candidates will be evaluated as also in such minimum standards as may be fixed by Commission in their discretion for the qualifying papers on Indian languages and English. As the applicant failed to obtain the qualifying marks fixed by the UPSC for English (Compulsory) paper, his other papers were not evaluated and he was declared as having failed to pass the written test. This was the only correct measure which the respondents could have taken. Not having

qualified in the compulsory English paper, inspite of relaxed standards having been given, his other papers could not have been evaluated. Applicant should not have any grievance on that. That being the case, the allegation that the applicant's case has not been considered under relaxed standards or that the action of the respondents was arbitrary and illegal has no basis. O.A. therefore, merits dismissal, according to the respondents.

7. In his rejoinder, in his M.A. No.2398/02, and during the personal submission today, it is submitted by the applicant that the respondents have acted arbitrarily. First, they had indicated that the applicant's physical disability certificate had not been received and secondly, they claim that the applicant had not qualified the compulsory English paper leading to non-evaluation of the other papers. Shri R.N. Singh, learned counsel points out that the respondents have acted in an incorrect and illegal manner. According to him, either his case was not considered under relaxed standard for physically handicapped persons or the evaluation of the compulsory paper ^{was} ~~was~~ not done properly or done incorrectly just to deny him the selection for interview. Further, the provision in the Civil Services (Mains) Examination Rules, 2001, relied upon by the respondents are arbitrary, harsh and non-transparent and give the respondents ^{unfettered} ~~unfettered~~ authority which was improper. Hence, the need for calling the answer books to see whether evaluation has been done correctly. He also prayed that the above provision be struck down being arbitrary and illegal.

8. Learned counsel for the respondents reiterate their pleadings and affirmed that the respondents have committed no irregularity.

9. We have carefully considered the rival contentions and perused the documents brought on record. Before deciding the O.A., we have to dispose of the M.A. No.2398/02. Applicant through this M.A. has sought directions to be issued to the respondents to produce the answer book of the applicant to see whether the evaluation has been done properly, as in his view, the respondents have apparently held malafide. This plea has no basis whatsoever. Respondents have gone on record that they had, though slightly later than others, the applicant's disability certificate and had considered his case under permissible relaxed standards. There is no ground to question the same. Naturally therefore, the question of calling for the answer papers by the Tribunal does not at all arise. Even otherwise, the task of judicial review being exercised by the Tribunal is not an appellate or supervisory function on the executive action. The scope of review is confined to finding whether all the requisite procedures have been gone through and whether the principles of natural justice have been followed. In this case, we find that both the conditions have been fulfilled. Therefore, we do not feel it is necessary to call for the answer papers of the applicant for reviewing the evaluation already done by the experts in the field. Applicant's request in this regard is without any merit and is hereby rejected. M.A. No.2398/02 is thus dis-allowed.


10. We also do not feel that the provision in the Civil Services (Mains) Examination Rules, 2001, challenged by the applicant are arbitrary or non-transparent. Rules clearly provide that Indian language and English paper are

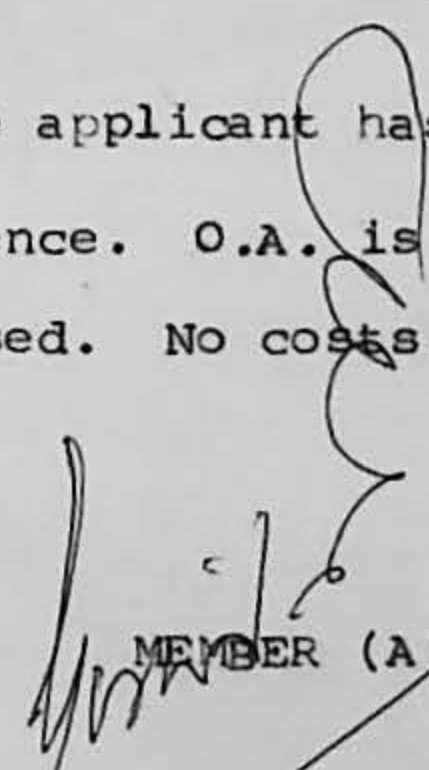
qualifying in nature and unless the applicant qualifies in the same, his/her other papers would ^{not} be evaluated. This procedure of elimination adopted by the respondents is a reasonable one especially as the standard expected in these papers is that of a matriculate. When the candidate cannot clear this paper, he has no right at all to expect that his other papers be valued so as to ensure his selection. This condition is not at all arbitrary and does not provide any unfettered discretion to the respondents, as alleged.

11. Coming to the main O.A., it is seen that the applicant held that the delayed receipt or alleged non receipt of his physical disability certificate had gone against him. This is not brought out on record. U.P.S.C. respondents have affirmed that the physical disability certificate of the applicant who was one among such 99 candidates was indeed received by them and he has been granted relaxed standards. Nothing more was required to be done by them. The fact that he had cleared another examination - Defence Services Examination - does not at all follow that he would have cleared the compulsory English ^{in Civil Service Exam.} also. Performance of the candidate would vary from one examination to the other and therefore, there is no reason to dispute the evaluation adopted and to hold that the respondents have ^{not} held in an improper manner. That another candidate was intimated of the marks obtained is also no basis for asking the production of the answer books. When the respondents have gone on record that the applicant, not having cleared the compulsory English, his other papers were not evaluated

as provided for in the Civil Service (Main) Examination, Rules, 2001, the validity of the rule having been upheld, the only issue is to see whether the same have been followed by the respondents. Nothing has been brought on record to show that the respondents have committed any irregularity in this regard. Therefore, their action in not evaluating the other answer papers of the applicant, who failed to clear the compulsory English, cannot be called in question. Applicant ~~therefore~~, did not make the grade in the compulsory English paper and therefore, other papers were not evaluated and his his name/number did not figure in the list of candidates who have made it to the interview. Applicant cannot have any further grievance. The decisions sought to be relied upon by the applicant are of no assistance to his, the circumstances being different.

12. We have no doubt that the applicant has not made out any case for our interference. O.A. is bereft of merit and is accordingly dismissed. No costs.


MEMBER (J)


MEMBER (A)

psp.