

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 13TH DAY OF MAY, 2002

Original Application No. 540 of 2002

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.C.S.CHADHA, MEMBER(A)

Jeetendra Kumar Yadav, son of  
Shri Sudama Yadav, R/o 288/55,  
New Sohbatia Bagh, Allahpur, Allahabad.

... Applicant

(By Adv: Shri Ram Sajiwan)

Versus

1. Union of India through its  
Secretary, Union Public Service  
Commission, Dholpur House,  
Shajahan Road, New Delhi.
2. Under Secretary, Union Public Service  
Commission, Dholpur House,  
Shahjahan Road, New Delhi.

... Respondents

(By Adv: Shri Satish Chaturvedi)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA applicant has prayed for quashing the impugned order dated 22.4.2002 and for a direction to the respondents to consider the candidature of the applicant and permit him to appear in Civil Services Examination 2002 which scheduled to commence on 19.5.2002.

The facts of the case are that respondent no.2 by notification dated 1.4.01-EI(B) published in Employment News on 15.12.2001 invited applications for appearing in preliminary examination of Civil Services Examination for recruitment to the services and posts mentioned in the notification. In

~~subsequent to the notification, the applicant, who is a candidate for the examination, has not appeared for the examination.~~




pursuance of the aforesaid, applicant filled the form and applied for permission to appear in preliminary examination. It appears that indavertantly applicant failed to indicate the centre of examination in the said form. Consequently, respondent no.2 by communication dated 22.4.2002(Annexure 1) rejected the application form for the above examination on the ground that centre of examination has not been indicated. The counsel for the applicant has submitted that it was by inadvertant mistake that applicant could not mention the centre of his examination which was bonafide and respondents ought to have taken a lenient view and permitted applicant to correct the mistake before passing the impugned order. Learned counsel has placed reliance in a Division bench judgement of Hon'ble High court Allahabad in case of 'Ajai Kumar Vs. U.P.Public Service Commission, Allahabad and another',(2000) 2 UPLBEC 1751.

Shri Satish Chaturvedi learned counsel for the respondents, on the other hand, submitted that the applicant is not entitled for any relief as the rules under which the examination form is submitted are ~~contrary~~ <sup>statutory</sup> in nature and there is no provision for granting such relaxation. He has placed reliance in para 6 Appendix II containing General instructions and which provide that while filling his application form, the candidate should carefully decide about his choice for the centre and optional subject for the examination. More than one application from a candidate giving different centres or optional subjects will not be acceptable in any case.



We have considered the submissions of the learned counsel for the parties. It is true that for every Civil Services Examination Central Govt. issued fresh rules under All India Services Act 1951 but it is difficult to say that all the rules contained therein are mandatory in nature. Non mention of place of examination in the form could be rectified by giving an opportunity to the applicant without causing any harm to anybody. We have perused the rules. It does not prohibit anywhere that opportunity should not be given before rejecting the application form. In our opinion, ~~that~~ before an examination form is rejected, opportunity should be given to the applicant to make-good the deficiency in the examination form if it is of the nature which can be rectified. Such a procedure if adopted by respondent no.2 it would be inconsonant with the principles of natural justice. It cannot be the object and purpose of the U.P.S.C to reject the forms of the candidates on a small mistake of the present nature. We find support from the judgment of the Division Bench of Hon'ble High court in case of 'Ajai Kumar(Supra). The observations of the Division Bench are being reproduced below:

"We are of the opinion that the U.P. Public Service Commission should not reject forms on such technicalities. Several petitions are coming up before this Court where forms are rejected due to technical omissions, e.g. that the candidate did not fill in his date of birth or his qualification etc. Obviously, these are cases of human error and a person should not be penalized for this. All humans can commit errors. The proper course of action of the Commission is that in such cases the Commission should call and ask the candidates to fill in the omission and it should not reject his application form



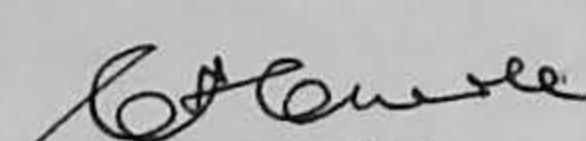
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on such technicalities."

In our opinion, the case of the applicant is squarely covered by the judgment of the Hon'ble High court. The ratio of the aforesaid judgment may be applicable to Union Public Service Commission also. In the circumstances, in our opinion, applicant is entitled for relief.

The OA is accordingly allowed. The order dated 22.4.2002 is quashed. The respondent no.2 is directed to permit the applicant to rectify the mistake in the examination form and allot<sup>ed</sup> him a centre of examination from which applicant shall appear. We make it clear that in case Commission finds any inconvenience or difficulty to permit the applicant to appear from the centre of examination of his choice, ~~here~~ <sup>mentioned by applicant</sup> may be allotted a centre other than that from which his appearance in the examination may be conveniently managed. There will be no order as to costs.

A copy of the order shall be given to counsel for the parties within 24 hours.

  
MEMBER(A)

  
VICE CHAIRMAN

Dated: 13th may, 2002

Uv/