

Reserved.

Central Administrative Tribunal

Allahabad Bench
Allahabad.

Original Application No. 1116 of 2002.

Allahabad this the 8th day of August 2003.

HON'BLE MR. JUSTICE R.R.K. TRIVEDI , VICE CHAIRMAN
HON'BLE MR. D.R. TIWARI, MEMBER A

Alok Kumar S/o Shri Shiv Pratap Singh
R/o 58/62, Dilkusha, New Katra, Allahabad.
Temporary R/o 1164-A, Chaman Apartment Napier Town,
Jabalpur. (M.P.)

.....Applicant.

(By Advocate : Shri S.C. Budhwar assisted by
Shri C.D. Mishra)

Versus

1. Union of India through Ministry of Personnel,
Public Grievances and Pension (Department of
Personnel & Training) New Delhi.
2. Union Public Service Commission,
New Delhi, through its Secretary.
3. The Ministry of Railways New Delhi
through its Secretary.

.....Respondents.

(By Advocate : S/Shri S. Chaturvedi, p. Mathur and
G.R. Gupta.)

O R D E R

BY HON'BLE MR. D.R. TIWARI, MEMBER-A

By this O.A. filed under Section 19 of the
Administrative Tribunal Act, 1985, the applicant
has prayed to quash the impugned order dated 01.06.2000
issued by respondent No. 2 by which his application
for Engineering Service Examination 2000 has been
rejected (Annexure A-1). He has further prayed to

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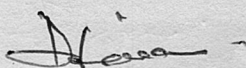
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quash the impugned order dated 18/30.7.2002 by which his representation dated 06.06.2002 was rejected (Annexure P-4) and the respondents be directed to declare the final result of Engineering Service Examination 2000.

2. The facts of the case are that the applicant is Master of Technology in Civil Engineering and qualified for Indian Engineering Service. His date of birth is 15.1.1970. The Indian Engineering Service falls under Central Civil Service Group 'A' for which separate examination is conducted by Union Public Service Commission and the candidates of only Engineering Disciplines are eligible. The Advertisement was published on 29.1.2000 for Engineering Service Examination 2000. The upper age limit was 30 years as on 1.8.2000. The applicant, as per the advertisement was over age as his date of birth is 15.1.2000. However, the applicant submitted his Application Form (no.10881429). He submitted an application along with the application form to permit him to appear at the examination. He followed it by further representation on 06.3.2000 to U.P.S.C. with request to treat his case as a special one and permit him to appear at Engineering Service Examination, 2000. The applicant, under the apprehension that his application form may be rejected by the commission on the ground of being overage, he filed a Civil Misc. Writ Petition No.26678 of 2000 in the Hon'ble High Court of Allahabad praying for suitable direction to the respondents not to reject his application form (Annexure No.A-2). Meanwhile applicant was served with the order from U.P.S.C. dated 01.6.2000 rejecting the application form (Annexure No A-I

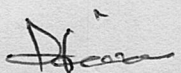
3. After hearing the arguments of the parties, the Hon'ble Court was pleased to pass interim order dated 22.6.2000 permitting the applicant to appear in the Engineering Service

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Examination, 2000 with the condition that his result will not be declared till further order of the Court (Annexure A-III). In view of this order of the Hon'ble High Court, the Commission issued admit card (Roll No. 384338) to the applicant and permitted him to appear at the examination at New Delhi. The Commission also intimated the applicant about his success in the written examination by its letter dated 17.3.2001. He was called vide letter dated 29.3.2001 to attend the interview scheduled on 4.4.2001. Meanwhile, the Hon'ble High Court dismissed the petition vide judgment and order dated 11.4.2002 on the ground that the applicant could not approach High Court under Article 226 without approaching Central Administrative Tribunal (Annexure A-IX) and the applicant filed the present O. A.

4. The applicant has stated that the respondents have increased/decreased the age limits in the post in respect of various services. The upper age limit was increased from 26 to 28 years for Civil Services Examination of 1991. Similarly, upper age limit was increased from 28 to 33 years for All India Services & Central Civil Services for 1992 examination. The upper age limit was raised from 26 to 28 in respect of Indian Forest Service in 1990. From these precedents, the applicant contends that respondents have exercised the power of relaxation in respect of age limits in different examinations from time to time. The respondents have also provided 5 years age concession for Engineering Service Examination, 2000 for those who are already in Government job. The Government took a decision in May, 1998 to increase the age limit from 28 to 30 years which was not implemented in time resulting in loss of opportunity for the applicant for 1998 as he was already overage in view of 28 years eligibility criteria.



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5. The respondents have, however, contested each and every contention raised by the applicant. They have submitted that the U.P.S.C. holds the examination as per rules for various examinations, as notified by the nodal Ministries. Accordingly, the candidates are eligible to appear in various examinations as per provisions of the rules and no relaxation of any conditions is allowed under any circumstances. This is a settled principle as per precedent cases earlier settled by various Tribunals and higher Courts. In O.A. No.747/92, N.K. Sharma Vs. Union of India & Ors. the Principal Bench of C.A.T. New Delhi, held as under :

"The Rules for Civil Services Examination are statutory in nature and are not open to challenge unless they are irrational and arbitrary. The framing, reframing, changing and recharging the Rules to meet the needs of situation lies exclusively in the domain of the executive and is not open to challenge unless there is a proven case of malafide."

6. The contention of the applicant that 5 years relaxation was given to persons who were in Government job has also been repelled. It is submitted that eligibility conditions including age limit relaxations for different categories of candidates is a policy matter which lies within the purview of Government of India which are changed, after careful consideration of all the relevant factors and circumstances at a particular time.

7. The applicant has taken a serious exception to delay on the part of Government that the decision was taken on 12th May, 1998 to increase the upper age limit from 28 to 30 years. The examination was held in June' 98 and the applicant could not appear in spite of being below 30 years of age because the notification was not issued on time and was issued on 21.12.1998 (Annexure No.I page 46). It is submitted that the decision

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Defendant

decision of Government of May'98 could not have been implemented for E.S.E. 1998 as the advertisement/notification for 1998 was already issued in January, 1998. The notification issued on 21.12.1999 was to take effect from April 1999 and the applicant was fully eligible for E.S.E. 1999 at which he availed of his chance. We feel that the Government may not be faulted on this account.

8. We have heard counsel for the parties and perused the pleadings as well. The learned counsel for the applicant has submitted the written argument which has been gone through.

9. The moot point which falls for consideration is whether the applicant succeeds on merit for the relief. The respondent has already submitted that the framing, reframing, changing and rechanging the Rules lies exclusively in the domain of the executive and is not open to challenge. The administrative action is subject to control by judicial review under three heads :-

- " i) Illegality, where the decision making authority has been guilty of an error of law, e.g. by purporting to exercise a power it does not possess;
- ii) Irrationality, where the decision making authority has acted so unreasonably that no reasonable authority would have made the decision;
- iii) procedural impropriety where the decision making authority has failed in its duty to act fairly." **

We do not find that the impugned order suffers from any of the infirmities mentioned above.

10. ** Judgment of House of Lords reported as (1984) 3 All E.R. 935 Council of Civil Services Unions and others Vs. Minister for the Civil Services."

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10. The undisputed fact is that the U.P.S.C. conducts various examination for different services. The nodal Ministries issues the notification fixing the eligibility regarding age limit and other conditions. The examination is conducted each year under separate categories. All the candidates appearing in a particular examination constitute a well defined class. The eligibility rules for Engineering Service examination, 2000 operated alike for all persons under like circumstances. In view of this, the applicant cannot complain of denial of equal protection. During the hearing, learned counsel for applicant laid emphasis on the fact that the respondents have been constantly and repeatedly changing the orders in the matter of upper age and the number of attempts to be allowed for different services. In view of well documented precedents in his written argument he urges that the relaxation in favour of applicant for about six months may be granted. Since the applicant was allowed to appear at the examination, he was successful in written examination and has been interviewed also. To withhold his final result is something which is against his legitimate expectation. It may, however, be stated that even the genuine expectation has no relevance in so far as the application of Rule is concerned. The thrust of the application is that the Central Government should be compelled to exercise the power of relaxation in his favour. It has been shown earlier that such power is exercised on valid relevant consideration and is not applicable to individual. Such relaxation is applicable to all equally placed persons. Such a classification known as reasonable classification is permissible within the frame work of the constitutional provisions. The applicant has not been able to show that some relaxation has been made for a particular candidate. The relaxation of raising upper age limit and increasing the

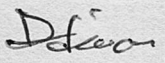
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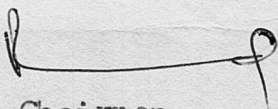
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number of chances is always applicable to all candidates equally. We are not convinced with the argument that relaxation may be granted to the applicant.

11. In the facts and circumstances of the case, the O.A. is bereft of merit and is dismissed.

No order as to costs.


Member-A


Vice Chairman

Asthana/-