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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 07th day of NOVEMBER 2003.

Original Application no. 1329 of 2003.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman
Hon'ble Mr. D.R. Tiwari, Administrative Member.

Vikas Pandey, a/a 23 years,
S/o Sri Padmakant Pandey,
R/o 177A, Tagore Town,
ALLAHABAD.

... Applicant

By Adv : Sri S Narain

V E R S U S

1. The Union of India through the Secretary,
Ministry of Personnel, Grievances and Pension,
Govt. of India,
NEW DELHI.
2. The Director, Staff Selection Commission,
Central Region, 8 A-B, Beli Road,
ALLAHABAD.

... Respondents

By Adv : Sri A. Mohiley & Sri Rajiv Sharma

O R D E R

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

By this OA, filed under Section 19 of the A.T. Act, 1985, the applicant has challenged the order dated 17.10.2003 (Ann 1) by which the applicant has been informed that his candidature for the recruitment of Section Officer (Commercial) Examination 2003 has been rejected on the ground that Repeat Certification at the bottom of the application has not been written in own handwriting.

2. The facts of the case are that the Staff Selection

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Commission, Central Region (in short SSC), Allahabad published an advertisement in 'Rozgar Samachar' dated 16th-22nd August, 2003, inviting applications for recruitment of Section Officer (Commercial) Group 'B' non-gazetted post in the office of Comptroller and Auditor General in the pay scale of Rs. 6500-10500 all over the Country. The date of examination mentioned in the advertisement was 16.11.2003. The last date for submitting the applications in pursuance to the above advertisement was 12.09.2003. The applicant in pursuance to the advertisement submitted application, however, his candidature has been rejected on the ground that he failed to give repeat certification in own handwriting as required in the application form. Aggrieved by which the applicant has approached this Tribunal. This OA was filed on 03.11.2003. Learned counsel for the respondents was granted time to file counter affidavit which has been filed today. Learned counsel for the applicant submitted that he does not propose to file rejoinder affidavit. Thus the pleadings are complete and we propose to decide this OA finally at this stage.

3. Learned counsel for the applicant has submitted that in the application form, the repeat certification is required to be given just below the column meant for OBC candidates only. There was no bold heading in between the column meant for repeat certification and column meant for OBC candidates and on account of there being no demarcating line the applicant missed to give repeat certification statement. Learned counsel for the applicant has further submitted that by not providing bold heading of this column or demarcating line the SSC is also responsible in contributing to the mistake and it was only on account of this factor



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the large number of candidates i.e. 5530 could not give this repeat certification. Learned counsel for the applicant has further submitted that the required certification was already given under the bold heading 'Ghoshna' and thus even in absence of repeat certification the applicant was legally bound by the information given by him in the application form. The repeat certification was only reiteration of the same declaration which had already been given by the applicant, and absence of repeat certification could not affect consideration of form on merits. In these facts and circumstances, it is submitted that the mistake committed by the applicant was curable and he should have been permitted opportunity to give repeat certification in the same form or separately before rejecting the candidature. It is also submitted that as the candidature of 5530 candidates out of 24197 has been rejected, the area of selection has been severally curtailed and the interest of justice requires that the respondents may be directed to give opportunity not only to the applicant but to all such candidates whose candidature has been **rejected** on this ground. It is also submitted that repeat certification may be required from the applicants even after holding the examination and it can be done without much inconvenience and without affecting other information in the form.

4. Sri A. Mohiley, learned counsel for the respondents on the other hand submitted that the provision contained in the form and the brochure are mandatory and for breach of them the candidature of the applicant has been rightly rejected. Quoting figures supplied in para 18 of the counter affidavit, the learned counsel for the respondents has submitted that the total number of candidates who applied for the examination was 24197, out of which number of accepted forms is 13947. Therefore, it cannot be said that the SSC in any way has...4/-

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contributed to the mistake committed by the applicant and other candidates. It is further submitted that 3149 OBC candidates submitted application form and out of them only 736 committed mistake of not giving repeat certification and their forms have been rejected on this ground. It clearly shows that there was no ambiguity in the form and the negligence was only on the part of the applicant as he failed to fulfil the mandatory requirement. Quoting para 22 of the counter affidavit, learned counsel for the respondents has further submitted that the examination process involves printing of question papers, Answer Scripts, Selection of Venues, Printing of Admit Cards, Attendance List etc and these steps consume considerable man power and time therefore, it would be extremely difficult for the SSC to make arrangements for such a huge number of candidates at such a short notice when the examination is scheduled to be held on 16.11.2003. Learned counsel for the respondents has also submitted that the prejudice shall be caused to the candidates whose application forms have been accepted, as they will have to face competition from the candidates whose forms have been rejected. It is also submitted that so far the selection is concerned, 13947 candidates are sufficient to select Section Officers (Commercial) for 200 posts. Learned counsel for the respondents has placed reliance on the following judgments :-

- i. State of Gujarat Vs. Shantilal Mangaldas & Ors, AIR 1969 SC 634.
- ii. Ramchandra Keshav Adke Vs. Govind Joti Chavare & Ors, AIR 1975 SC 915.
- iii. Manpreet Kaur Randhawa Vs. Baba Farid University of Health Sciences, Faridkot, 2002 (2) SCT 450

Learned counsel for the respondents has also cited an unreported judgment of Hon'ble Delhi High Court in case of Hoshiyar Singh



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Ghanghas & Ors Vs. Union of India & Ors (CWP no. 5497/1997)
decided on 09.11.1998, with other connected cases.

5. We have carefully considered the submissions of learned counsel for the parties. We have also gone through the brochure and the application form filled by the applicant, photo copy of which has been supplied to us by learned counsel for the respondents. Though from the impugned order it appears that the applicant had given repeat certification, but it was not in his own handwriting. A perusal of the form filled by the applicant on 08.09.2003, ^{however} shows that column was left blank. The column is just below the column meant for OBC candidates only, there is no bold heading or line so as to demarcate the column meant for OBC candidates and column provided for repeat declaration required from all the candidates. From an ordinary look to form both appear to be under the same bold heading. If the placement of this column is considered with the angle of a student filling the form, in our considered opinion the possibility of mistake that this whole column is meant for OBC candidates cannot be ruled out and it is for this reason that large number of candidates missed to give repeat certification and have invited rejection of their candidature. Out of 24197, 5530 forms have been rejected on this ground, which is a large number and forms about more than one fifth of the total candidates. Thus from the placement of the column for repeat certification and manner of it's mention alongwith heading meant for OBC; candidates could not be blamed solely for mistake, but, the responsibility lies on the SSC also in not providing demarcating line, so as to clearly distinguishing the column meant for OBC candidates and column provided for repeat certification, as it has been done in respect of other column for different informations in the same form.

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6. Now the next consideration is whether, the requirement by repeat certification is such that it's absence could cause inconvenience ^{to SSC} or obstruct it's functioning in respect of selection. The repeat certification required is being reproduced below for correct appricication :-

"I certify that I am the applicant whose name, date of birth and other particulars are given therein."

From the aforesaid it is clear that the repeat certification is regarding the identity of the applicant that information has been given by one whose name appears and date of birth and other particulars have been given above. Repeat certification by itself does not contain any information. Requirement of affixing photograph is also there. Then there is a column headed as 'Declaration' which requires following declarations and signature of the candidate :-

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DECLARATION

I have not submitted any other application for this examination. I am aware that if, I contravence this rule, my application will be rejected summarily by the Commission.

I have read the provision in the Notice of the examination carefully and I hereby undertake to abide by them.

I further declare that I fulfill all the conditions of eligibility regarding age limits, educational qualifications, physical standards etc., prescribed for admission to the examination. I have enclosed attested copies of certificates in support of my claim for Educational Qualifications, age, category (SC/ST/ExS/OBC/OH/HH) and age relaxation/physical standards relaxation.

For Departmental Candidates only :

I also declare that I am informing my Head of Office/ Department/Ministry in writing that I have applied for this examination.

I also declare that I do not stand debarred by SSC/ UPSC as on date and have never been convicted by any ----.7/-

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court of law.

I hereby declare that all statements made in this application are true, complete and correct to the best of my knowledge and belief. I understand that in the event of my information being found suppressed/false or incorrect or ineligibility being detected before or after the examination my candidature/appointment is liable to be cancelled."

From the close look of the declarations given by the applicant, it is clear that effective **certification** was already given in the column meant for declarations and that is why the requirement of other certification has been styled as repeat certification as necessary declaration together with photograph was already there. In our opinion the functioning of the SSC could not have been affected in any manner, even if column meant for repeat certification was left blank. The repeat certification in the circumstances cannot be termed mandatory so as to reject the candidature for non-compliance of the same. The SSC in our opinion should have permitted chance to candidates to complete this requirement ~~in the form~~ by giving repeat certification separately or in the form filled by the candidates. The view taken by the SSC, in the facts and circumstances of the case, appears to be harsh and arbitrary. Considering the position of unemployment in the Country such harsh step could have been avoided by giving opportunity to remove the deficiency. Element of the justice and kindness should not have been ignored by a body like SSC, which deals with the future of candidates at its ~~threshold~~. From what ever we have said above, we do not suggest that the SSC committed any kind of illegality in requiring the applicants to give the repeat certification. In the opinion of SSC, it would be necessary to call for such a repeat certification to curb cases of malpractices which

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are on increasing side.

7. Learned counsel for the respondents has relied upon the judgments in support of his contentions and has submitted that if the relief is granted to the applicant it shall seriously affect the conducting of the examination scheduled to be held on 16.11.2003. We have considered the judgments. The judgments of Hon'ble Supreme Court are on the question that where power is given to do [^]~~the~~ certain thing in a certain way, then it must be done in that way or not at all. In our opinion the judgments of Hon'ble Supreme Court in case of State of Gujarat (supra) and Ramchandra Keshav Adke (supra) have no application in the present case. No exercise of power is involved, but it is a simple case where the applicant has committed mistake in filling the application form and the question of consideration is whether he may be given opportunity to remove the defect or not. It is not the case of malpractice but it is a case of bonafide mistake occurred in the given circumstances and the mistake can be allowed to be rectified, if no prejudice is going to be caused to SSC. The judgment of Hon'ble Punjab and Haryana High Court in case of Manpreet Kaur Randhawa (supra) and judgment of Hon'ble Delhi High Court in case of Hoshiyar Singh Changhai & Ors (supra), have also been given in different set of facts. In case of Manpreet Kaur Randhawa (supra) seats were reserved in medical courses for rural candidates, in the case before Hon'ble High Court the required certification in the column 'Reserved' for rural area seat was not given. The Hon'ble High Court observed that he could not claim the benefit of seat reserved for rural area. Similarly in case of Hoshiyar Singh Changhai & Ors (supra) the candidates had submitted multiple applications, though the same was prohibited in the brochure. It amounted to malpractices and misconduct and



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cannot be compared with the present case which is the case of bonafide mistake. In the circumstances the judgments relied upon by the learned counsel for the respondents are distinguishable.

8. The last question for consideration is whether the benefit should be given to applicant only or to other candidates also and further whether the opportunity of rectifying the mistake should be given before or after the written examination. No other candidate has approached this Tribunal except the applicant. In the circumstances, we are required to give relief to the applicant and we leave it to the SSC to think over the matter again and form an opinion in the light of observations made above, whether the interest of large number of candidates should be also saved which may be done by simple exercise by giving notice, calling them to rectify the mistake committed in giving repeat certification. Such notice may be given individually or ^{by means of a} general notice by means of Radio, Television or News Papers. This can be also done after holding the examination and candidates may not be deprived from appearing in the examination. These are only our suggestions and we leave it to the SSC to decide the course and the method by which justice may be given to the other candidates.

9. For the reasons stated above, this OA is allowed. The impugned order dated 17.10.2003 (Ann 1) is quashed. Respondent no. 2 is directed to give opportunity to the applicant to give repeat certification in his application form and allow



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him to appear in the written examination scheduled to be held on 16.11.2003. The applicant shall appear before respondent no. 2 alongwith copy of this judgment on 11.11.2003.

10. There shall be no order as to costs.

11. Copy of this order shall be given to learned counsel for the parties within three days.

D. S. D. S.

Member (A)

[Signature]

Vice-Chairman

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