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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A. No.249 of 2005

(Decided on 22nd June, 2007)

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Hrudananda Panda

Vrs.

Union of India and others

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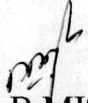
Applicant

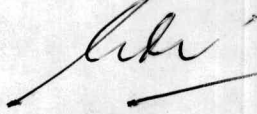
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Respondents

FOR INSTRUCTIONS

- 1) Whether it be referred to the Reporters or not ? *yes*.
- 2) Whether it be sent to the Principal Bench of the Central Administrative Tribunal or not ? *yes*.


(B.B.MISHRA)
ADMINISTRATIVE MEMBER


(N.D.RAGHAVAN)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

O.A.NO. 249of 2005

Cuttack, this the 22nd day of June, 2007

CORAM:

HON'BLE SHRI N.D.RAGHAVAN, VICE-CHAIRMAN
AND

HON'BLE SHRI B.B.MISHRA, ADMINISTRATIVE MEMBER

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Hrudananda Panda, aged 30years, son of P.B.Panda, Badabarena, P.O.Gopapur,
Dist. Cuttack Applicant

Advocates for applicant - M/s A.K.Mishra, J.Sengupta, J.K.Panda,
G.Sinha & A.Mishra

Vrs.

Union Public Service Commission, represented through Secretary, Dholpur House,
Shahajan Road, New Delhi 69 Respondents

Advocate for Respondents - Mr.U.B.Mohapatra, SCGSC

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ORDER

SHRI N.D.RAGHAVAN, VICE-CHAIRMAN

Brief facts of the applicant's case are that he had an excellent academic career. He was a candidate for the Engineering Services Examination 2004 notified by the Union Public Service Commission (UPSC) in the Employment News dated 10th January to 16th January 2004. The scheme of the written part of the said Examination was that the written examination would comprise two sections. Section I consisted only of objective type of questions and Section II of conventional papers. Both Sections would cover the entire syllabus of the relevant engineering disciplines, viz., Civil Engineering, Mechanical Engineering, Electrical Engineering and Electronics & Telecommunication Engineering. The notification of the Examination stipulated that candidates are permitted to bring and use battery



operated pocket calculators for conventional (essay) type papers only and that lending or interchanging of calculators in the examination hall is not permitted. The examination for Civil Engineering Paper I (Conventional) was scheduled on 14.6.2004 from 9.30 A.M. to 12.30 P.M. When the applicant was appearing in the said Paper I (Conventional) on 14.6.2004, at about 9.45 A.M. the Centre-In-Charge (UPSC) came and snatched away the Scientific Calculator from all the students sitting in Room No.2 of the Stewart Science College. The requests made by the candidates including the applicant for return of the Calculators were not paid any heed by the Centre-In-Charge. However, the Calculators were returned to them only at 11.50 A.M. Because of this, the applicant felt disturbed and could not fare well in the said Paper I (Conventional). The request made by the applicant in presence of the college staff and the invigilator for extension of time was also not acceded to by the Centre-In-Charge. The UPSC by letter dated 19.1.2005 intimated the applicant that on the basis of the results of the written part of the examination held from 12.6.2004 he had qualified to be called to the interview for Personality Test. Thereafter the applicant received another letter dated 16.2.2005 requesting him to be present at the Commission's Office on 11.3.2005 at 09.00 A.M. for the Personality Test. The applicant accordingly appeared at the interview for Personality Test on 11.3.2005. The result of the Engineering Service Examination 2004 was published on 13.5.2005 and he was found unsuccessful therein. The applicant has enclosed his marks query in the Examination (Annexure A/6) to show that though he fared well in Engineering Paper II and the Personality Test, he could not secure good marks in Conventional Paper I due to want of Calculator



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which was illegally snatched away by the Centre-In-Charge (UPSC) during the examination at 9.45 A.M. and was subsequently returned to him at 11.50 A.M., i.e., 40 minutes before the examination time was over. It is the applicant's grievance that had he not been illegally deprived of using the Calculator in the Conventional Paper I, he would have scored more marks in the said paper and ultimately come out successful in the Examination. The applicant has stated that his representation made on 16.6.2004 to the UPSC did not yield any response. The applicant has, therefore, approached this Tribunal in the present O.A. for the following relief:

“8. Relief sought:

Under the circumstances it is humbly prayed that the Hon'ble Court may be pleased to quash the result of the Engg. Service Examination, 2004 published on 13/5/05 in Employment News, Annexure A/7 and further be pleased to direct that the petitioner is eligible for appointment in Group A Services/posts in Civil Engineer in any of the Ministry/Department as per the vacancies in Engineering Service and to allow the application with costs.”

2. The Respondent-UPSC have filed a counter refuting the claim of the applicant. They have specifically denied the allegation of snatching away of the calculator from the applicant by the Centre Supervisor or the Inspecting Officer. They have also stated that no report about snatching away of the calculator from the applicant was received by them from the Centre Supervisor or the Invigilator. They have also stated to have not received any representation from the applicant. It has also been stated in the counter that the applicant also did not mention about the alleged incident of snatching away of the calculator when he appeared at the



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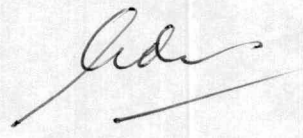
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Interview for Personality Test held at the premises of the Commission on 11.3.2005.

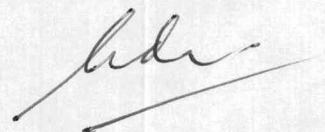
3. The applicant, by filing a rejoinder to the counter, has controverted the statements of the Respondent and has produced the speed post receipts granted by the Department of Post on 17.6.2004 in support of his plea that he had made a representation to the Respondent.

4. We have perused the pleadings and heard the learned counsels for the parties on both sides.

5. The sole point that arises for our consideration is as to whether the applicant was, in fact, illegally deprived of using the calculator by the Centre-In-Charge or the Centre Supervisor appointed by the Respondent in respect of the center during the examination of Conventional Paper I on 14.6.2004 at 9.45 A.M., which, according to the applicant, materially affected his performance in the said examination paper. In support of his plea, the applicant has filed the copy of his representation dated 16.6.2004 at Annexure A/3 and the speed post receipt dated 17.6.2004 (Annexure A/8). The Respondent has stated to have not received any report from the Centre Supervisor or from the Invigilator who was on duty in Room No.02 of the Centre as well as any representation from the applicant in the matter. In the circumstances, we have to examine the veracity of the statement of the applicant with regard to snatching away of the calculators from him by the Centre-In-Charge or the Centre Supervisor. If at all the Centre-in-charge or the Centre Supervisor appointed by the Respondent snatched away the calculators used by the candidates sitting in Room No.2 of the Centre-Stewart Science College and



subsequently returned the same only 40 minutes before the examination time was over, then all the said candidates including the applicant might have felt aggrieved thereby and lodged written complaint with the Centre Supervisor or sent representations to the Respondent. It is not the case of the applicant that other candidates had made representations to the Respondent complaining about the illegal snatching away of the calculators from them. It is also not his case that immediately after the examination was over on 14.6.2004, he had personally lodged the complaint with the Centre Supervisor or the Centre-In-Charge appointed by the Respondent. The applicant is stated to have sent a copy of his representation dated 16.6.2004 to the Principal, Stewart Science College, Cuttack, by speed post. When the applicant was very much present in the college premises and when he felt aggrieved by the alleged action of the Centre-In-Charge, he should have personally met the Centre Supervisor/Principal of the college and lodged the complaint with him, but he did not do so. On the basis of the written part of the examination, the applicant had appeared at the interview for Personality Test at the office premises of the Respondent at New Delhi on 11.3.2005 when he also did meet the concerned officer of the Respondent and personally apprise him of the alleged incident for necessary action. The Respondent has stated that it is only after the final result was declared and he became unsuccessful that the applicant has taken this plea in his purported representation dated 16.6.2004 as well as in the O.A. filed before the Tribunal with a view to take one more chance, he having become over-aged for the subsequent examination. The Respondent has also stated that in respect of the Cuttack Centre, the District Collector was appointed as the



Coordinating Officer. The examination was smoothly conducted in the Centre from where the applicant was appearing at the examination. There was no report received by the Respondent from the Centre Supervisor, or the Invigilator, or the Coordinating Officer about the alleged incident of snatching away of calculator from the candidates sitting in Room No.02 of the Centre. In consideration of all this, we are unable to believe the plea of the applicant about the snatching away of the calculator by the Centre Supervisor.

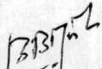
6. In the facts and circumstances of the case, we would also observe here that the applicant having acquiesced in the result of the written part of the examination and having appeared at the interview for the Personality Test, is estopped from disputing the marks awarded to him in the Conventional Paper I solely on the alleged ground of snatching away of the calculator from him.

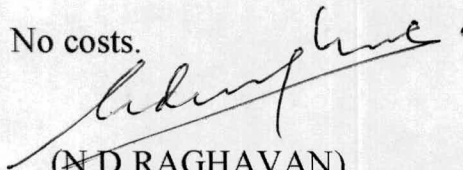
7. As regards the plea of the applicant about his excellent academic career and his better achievements in other papers of the examination, we would like to observe here that it is not universally acceptable that a candidate having excellent academic career is expected to maintain the same standard in a particular examination paper at the specified time. Performance of a candidate in an examination or in a particular paper of the examination, is dependent upon various attending circumstances such as deep study and knowledge in the particular subject, mental~~3~~ preparedness, etc.. For all this reason, we are unable to agree with the applicant that he did not fare well in Conventional Paper I due to want of calculator allegedly snatched away by the Centre-In-Charge.



8. The other aspect of the matter is that the examination in question was conducted by the UPSC which is a constitutional body set up under Article 320 of the Constitution of India. The examination was held at various centers located all over the country. The Centre Supervisors, the Coordinating Officers, the Invigilators, and the Inspecting Officers were appointed by the Respondents to ensure smooth conduct of the examination. They were also given a set of written instructions on the basis of which they were required to discharge their duties. After publication of the final result of the examination, the candidates nominated by the Respondent might have been appointed to posts in different organizations set out in the notification. Keeping all these aspects of the matter in mind and in view of our conclusion that the applicant has not been able to prove beyond doubt that he was illegally deprived of using the calculation while appearing at the Conventional Paper I, we hold that the O.A. is devoid of merit and liable to be dismissed.

9. In the result, the O.A. is dismissed. No costs.


(B.B. MISHRA)
ADMINISTRATIVE MEMBER


(N.D. RAGHAVAN)
VICE-CHAIRMAN