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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.150 OF 2005  
Cuttack this the 21<sup>st</sup> day of January, 2009

Umakanta Nayak... Applicant(s)


-VERSUS-

Union of India & Ors ... Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ?
2. Whether it be sent to Principal Bench for circulation or not ?

  
(C.R. MOHAPATRA)  
ADMINISTRATIVE MEMBER

  
(K. THANKAPPAN)  
JUDICIAL MEMBER

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.150 OF 2005

Cuttack this the ~~21st~~ day of January, 2009

CORAM:

THE HON'BLE SHRI JUSTICE K.THANKAPPAN, JUDICIAL MEMBER  
AND  
THE HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER

Umakanta Nayak, aged about 32 years, son of Swapneswar Baya, At/PO-Nuapatna, PS-Tigiria, Dist-Cuttack, residing in Qrs. No.VR-93, Unit-6, Bhubaneswar, Dist.Khurda

... Applicant

By the Advocates: M/s. D.K. Mohanty  
RK. Mohapatra,  
M.K. Mohapatra  
P. Jena

-VERSUS-

Union Public Service Commission represented through its Secretary, Dholpur House, Shahjahan Road, New Delhi – 110 011

... Respondents

By the Advocates: Mr. U.B. Mohapatra

ORDER

HON'BLE SHRI JUSTICE K. THANKAPPAN, JUDICIAL MEMBER :

1. Being dissatisfied and disgruntled in the matter of evaluation of answer scripts in the Civil Services (Main) Examination 2001 by the Union Public Service Commission ( in short UPSC), the applicant has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

“In view of the facts mentioned in the preceding paragraphs, the applicant prays that the Hon'ble Tribunal may kindly issue necessary direction to the Respondent to produce the answer scripts of the petitioner along with three other answer scripts of



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other candidates with the same topics in the English Essay paper of the Civil Services (Main) Examination 2001 within a period to be stipulated by the Hon'ble Tribunal

Direct the Respondent to take into account 173 marks scored by the applicant in Anthropology-I and 173 marks scored by the applicant in Psychology-I.

After production of the said answer scripts, the Hon'ble Tribunal may kindly get the same re-evaluated by the expert bodies and direct the Respondent to take into account the marks of the applicant, as would be awarded to him by the expert bodies, and determine his selection or otherwise in the Civil Services (Main) Examination 2001.

And quash Annexure-A/4 so far as reduction of marks secured by the applicant in Anthropology-I from 173 to 135 is concerned.

The Hon'ble Tribunal may pass any other appropriate order/orders and grant any other relief/reliefs to which the applicant is entitled"

2. The facts of the case in brief are that the applicant, having attained Graduation, Post-Graduation and M.Phil. appeared at the Civil Services (Main) Examination 2001. As per the information gathered through the Internet, the applicant having secured 41% marks in English Essay, which in his opinion being much less, represented to the Respondent for verification of the marks. It may be stated that the applicant having secured 54% and 49% in Optional Paper-I and II respectively, had no grievance over that. The Respondent, in reply to his representation, replied as per Annexure-A/3 dated 18.6.2002 that there was no irregularity in the matter of evaluation or totaling or any error of any other kind. It is the further case of the applicant that he having found 135 marks awarded in Psychology-I (out of 300 marks) as per the result sheet (Annexure-A/2), made a further representation dated 18.6.2002 to the Respondent pointing out that the marks so awarded to him in the Optional Paper - Psychology-I were much less and that his answer scripts in the said paper were not properly evaluated In the said representation

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he made a request to re-evaluate and/or recheck and to re-determine his total marks in the Civil Services (Main) Examination 2001. The Respondent, as per letter dated 23.7.2002 intimated the applicant that he has secured 173 marks in Psychology-I and 135 marks in Anthropology-I. It is the case of the applicant that in order to maintain the total marks 1203 in tact, the Respondent has unilaterally and arbitrarily reduced the marks in Anthropology I from 173 to 135 and in effect, the applicant has not been selected in the Civil Services (Main) Examination.

3. The case put forward by the applicant before this Tribunal is that as per Column 10(ii) of application form for the Civil Services(Main) Examination, 2001 (Annexure-A/5), he had opted Anthropology as the 1<sup>st</sup> optional subject for papers VI and VII and Psychology as the 2<sup>nd</sup> optional subject for papers VIII and IX as per column 10(iii). But as per Annexure-A/2, he received the information that he had scored 173 marks and 135 marks for Optional I(Code 1) and Optional II(Code-1) respectively. Hence, the applicant has submitted that if marks secured by him in Anthropology, i.e., 173 is added, the total marks it would work out to 1241 in place of total marks 1203 and since the Respondent has committed illegality and injustice, the Tribunal should intervene in the matter.

4. In the counter filed by the sole Respondent, viz., U.P.S.C., it is specifically stated in 1<sup>st</sup> paragraph as under:

"The applicant had represented to the Commission on 30.5.2002 and 18.6.2002 seeking verification of marks obtained by him. After receiving the representations, his answer books were carefully re-checked and no error of any kind in the marks was observed. Reply to this effect was sent to the applicant vide Commission's letters dated 18.6.2002 (Annexure-A/3 of O.A.) and 23.7.2002



(Annexure-A/4 of O.A.) Averment of the applicant that he scored 173 marks in Anthropology Paper-I is baseless. The Commission never informed the applicant that he was awarded 173 marks in Anthropology Paper-I. It is, however, clarified that the applicant downloaded his marks from the Commission's website wherein names of the optional papers were not indicated. It only indicated Optional Paper and Optional Paper II which were not in the same order as given in the application form filled in by the applicant. This would have perhaps created doubt in the mind of the applicant which was later clarified to him vide Commission's letter dated 23.7.2002 (Annexure-A/4). However, subject-wise break up of marks awarded to the applicant are reproduced as under:

Name of the subject	Marks	Maximum Marks
General Studies Paper-I	148	300
General Studies Paper-II	180	300
Essay	82	200
Anthropology Paper-I	135	300
Anthropology Paper-II	156	300
Psychology Paper-I	173	300
Psychology Paper-II	149	300
Total in written Exam.	1023	2000
Marks obtained in P.T./Interview	180	300
Total	1203	2300

5. Further, it is stated in the counter that the mistake pointed out by the applicant in the O.A. regarding the reporting of the mark for Optional Paper-I and Optional Paper-II is not based on any proper material. It is further stated by the UPSC as under:

"It has already been clarified that the mark sheet downloaded by the applicant from the Commission's website did not bear the name of optional paper opted by the applicant. It indicated optional Paper-I and Optional Paper-II, which were not in the same order as given in the application form filled-in by the candidate. The Commission never informed the applicant that he was awarded 173 marks in Anthropology Paper-I. It is only a figment of imagination on the part of the applicant".

6. In this background, it would be advantageous to quote hereunder as to what the Respondent with reference to the representation dated 18.6.2002 of the applicant had replied.



"This has reference to your representation dated 18.6.2002 regarding low scores in Psychology-I in Civil Services (Main) Examination, 2001. It is stated that you have obtained 173 marks in Psychology-I and 135 marks in Anthropology-I. The records have been carefully scrutinized with reference to the following aspects:

- i) No part of any answer has been left unvalued
- ii) There is no totaling error
- iii) All answerbooks used are intact
- iv) There is no error of any other kind

After scrutiny of the records, it is conformed that there is no error in the marks secured by you in Psychology-I and Anthropology-I in Civil Services (Main) Examination, 2001".

7. The UPSC has stated in the counter that the rules regarding examination and the Commission do not provide for revaluation of answer books or showing the answer books to any candidate. It is also stated that with the same prayer, the applicant had earlier moved the Hon'ble High Court of Orissa and the Hon'ble High Court dismissed the claim of the applicant relying on the judgment of the Apex Court reported in (2004) 6 SCC 714 (Pramod Kumar Srivastava Vs. Bihar Public Service Commission, Patna & Ors.).

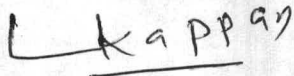
8. In the light of the stand taken in the counter reply and the rulings relied on by the Respondent, this Tribunal has to consider the reliefs claimed by the applicant.

9. Admittedly, the triumph cards for the applicant are Annexures-A/2 and A/4. We have perused both the documents in the light of the contentions raised by the applicant and it is seen that there is no mistake committed by the Respondent in reporting the marks obtained by the applicant either in Annexures-A/2 or A/4. This apart, the reasoning given by the UPSC that the mark sheet downloaded by the applicant from the

Commission's website did not bear the name of optional paper opted by the applicant and that it indicated Optional Paper-I and Optional Paper-II, which were not in the same order as given in the application form filled in by the candidate and that the Commission never informed the applicant that he was awarded 173 marks in Anthropology Paper-I is wholesome and cannot be called in question.

10. Hence, we are of the view that the applicant has not been able to make out a case for any of the relief sought for by him. In the result, the O.A. being devoid of merit is dismissed. No costs.

  
(C.R. MOHAPATRA)  
ADMINISTRATIVE MEMBER

  
(K. THANKAPPAN)  
JUDICIAL MEMBER

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