

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Original Application No.230/2006
This the 12th day of May 2006

HON'BLE MR. JUSTICE KHEM KARAN, VICE-CHAIRMAN.
HON,BLE MR. N.D. DAYAL, MEMBER (A)

Abhishek Kumar aged about 30 years, son of Sri Pramod Kumar Pandey, resident of B-502, C.S.I. Towers, Vipin Khan, Gomti Nagar, Lucknow.

...Applicant.

By Advocate: Shri Anil Kumar Tewari.

Versus.

1. Union Public Service Commission, Dhaulpur House, Shahjahan Road, New Delhi, through its Secretary.
2. Secretary, Union Public Service Commission, Dhaulpur House, Shahjahan Road, New Delhi.
3. District Examination Controller /District Magistrate, Lucknow.

.... Respondents.

By Advocate: Shri P.K. Srivastava for Shri A.K. Chaturvadi.

ORDER (Oral)

BY HON'BLE MR. JUSTICE KHEM KARAN, VICE-CHAIRMAN.

1. Heard Shri Anil Kumar Tewari and Shri P.K. Srivastava holding brief for Shri A.K. Chaturvedi, on the application for amendments

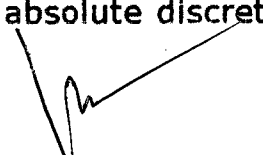


moved today. The amendment application is allowed. The amendments will be incorporated during the course of the day.

2. Heard the parties concerned on the admission of this O.A. and also on the prayer for interim relief.

3. The applicant applied for appearing in the Preliminary Civil Services Examination 2006, to be conducted by U.P.S.C. He sent two application forms. In the earlier one he opted "Public Administration" as an "optional subject" and in the second one, "Law" as an optional subject. It was in January 2006 that he sent a representation to the Commission for accepting the First application, giving "Public Administration" as an optional subject and not to consider subsequent application giving "Law" as an optional subject. The commission issued Admit Card showing "Law" as an optional subject. The Preliminary Examination is scheduled to take place on 14.05.2006 and the centre of the applicant is Lucknow. It appears that the applicant approached the Hon'ble High Court by way of filing W.P.No.2898 of 2006 but the petition was dismissed as withdrawn. The Commission has rejected his representation vide order dated 10.5.2006 (Annexure-2) for the reasons stated therein. Aggrieved of it, the applicant has come to this Tribunal, praying for quashing the order dated 10.5.2006 and for directing the opposite-parties to allow him to appear in the preliminary examination with "Public Administration" as an optional subject.


4. Shri Tewari, has contended that accepting that the Commission has discretion to reject either of two applications form; it ought to have exercised it in the light of request of the applicant, which he made in January 2006, well before issuance of admit card. Shri Tewari says where the authority is vested with absolute discretion, it should



be more careful and reasonable in exercising the same. The learned counsel has referred to para-18 and 19 of the case reported in (1986) 2 Supreme Court Cases page-679 COMPTROLLER AND AUDITOR GENERAL OF INDIA, GIAN PRAKASH, NEW DELHI AND ANOTHER VS. K.S. JAGANNATHAN AND ANOTHER.

5. On the other hand, the learned counsel for the respondents has submitted that when there was a clear cut instructions in the advertisement that if a candidate gives two applications with different optional subjects or centres, the Commission shall be free to accept either of them and its decision shall be final. The learned counsel for the respondents has also submitted that it is the subsequent application form, wherein Law was given as optional subject, that has been accepted by the Commission and such acceptance cannot be said to be irrational and illegal.

6. We have considered the respective submissions and have gone through the contents of O.A. and the papers annexed to it. We find it difficult to help the applicant. The Commission is a responsible body, and has acted in terms of the terms and conditions of advertisement. The relevant portion of those terms and conditions is reproduced in the impugned order itself. It is true that the applicant made a request for not accepting the latter application, but nothing has been shown to us, as to how the Commission was bound by such communications, if any. No doubt in such cases, a sympathetic view is adopted, but in cases where a person is not being allowed to appear at the examination, ^{for} ~~the~~ some technical reasons. Here the applicant has been issued admit card, according to his own application form, but he wants



to appear in a different subject, mentioned in another application form, given by him.

7. The O.A. is not admitted and is dismissed. Parties to bear their respective costs.


(N.D. DAYAL)
MEMBER (A)


(KHEM KARAN)
VICE-CHAIRMAN.

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