

Central Administrative Tribunal Lucknow Bench Lucknow

Original Application No. 48 / 2009

This, the 20th day of May, 2009.

HON'BLE MR. M. KANTHAIAH, MEMBER (JUDICIAL)

HON'BLE DR. A. K. MISHRA, MEMBER (ADMINISTRATIVE)

Km. Divya Vishen, daughter of Shri Raj Narain Singh, aged about 27 years, resident of 29, Raj Bhawan Colony, Lucknow.

Applicant.

By Advocate Sri S. P. Singh.

Versus

1. Union of Public Service Commission, Dhaulpur House, Shahjahan Road, New Delhi through its Chairman.
2. Secretary, Union Public Service Commission, Dhaulpur House, Shahjahan Road, New Delhi.
3. First Flight Couriers Ltd., 414-415, Sahara Trade Centre, Lucknow.

Respondents.

By Advocate Sri A. K. Chaturvedi.

ORDER

By Hon'ble Mr. M. Kanthaiah, Member (J)

The applicant has filed the original application with a prayer to issue direction to the respondents to accept the application form of the applicant for Civil Services Examination (Pre Exam), 2009 and also to consider the candidature of the applicant for such examination on the ground that they have refused to accept the application form arbitrarily and in negligent manner.

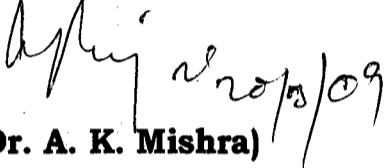
2. The respondents have filed counter affidavit denying the claim of the applicant stating that the dak counter of the respondent has not refused to accept any of the applications received through any individual or any Courier agent.

3. The applicant has filed reply denying the stand taken by the respondents and reiterated her pleas in the original application.


4. Heard both sides.
5. The point for consideration is whether the applicant is entitled for the relief as prayed for.
6. It is the case of the applicant that on 31.1.2.2008, she sent the application form to the Respondent No. 2 through respondent No. 3 Courier Service, for Civil Services (Pre Exam)2009 after completing all the formalities. But all of sudden, Respondent No. 3 delivered back the application form to the applicant intimating that Respondent No. 2 has refused to accept the application form and the same was intimated to her in writing by the Courier Service. It is also the case of the applicant that as per notification 31.12.2008 is the last date for submission of application form and the candidates are entitled to send their application form through Courier Service, but Respondent No. 2 refused her application form in unfair and arbitrary manner and as such he filed this application to issue direction to the Respondent No. 2 to receive his returned application form and consider her candidature for Civil Services (Pre Exam) 2009.
7. The Respondents No. 1 and 2 have categorically denied the contention of the applicant stating that dak counter has not refused to accept any of the applications received through any individual or any Courier agent and thus denied the claim of the applicant. Respondent No. 3 remained ex parte.
8. Though the applicant contended that the Respondent No. 2 returned his application form, he has not filed any such returned endorsement. Similarly, the applicant has not placed any material to show that there was any such returned endorsement of application form of the applicant from Courier Services (Respondent No. 3) to substantiate that her application which she refused sent through Courier has been returned by the respondent No. 2.
9. The applicant mainly relied on photocopy of information obtained from website of Respondent No. 3 (Annexure A-10), but the same does not reveal return or refusal of the application of the applicant which she sent through the

Respondent No. 3 on 31.12.2008. Without any such document from Courier Service (Respondent No. 3) in respect of return/refusal of the application of the applicant by Respondent No. 2, it is not open to the applicant to blame the respondent No. 1 and 2 that they have not accepted his application which she sent through Courier Services (Respondent No. 3). Without any such laches on the part of the respondents, the applicant is not justified to seek such relief against the Respondent No. 2 to receive the application of the applicant for consideration of his candidature for Civil Services(Pre Exam)2009. Thus there are no merits in the claim of the applicant and as such, the same is liable for dismissal.

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


(Dr. A. K. Mishra)

Member (A)


(M. Kanthaiah) 20.05.09

Member (J)

v.