

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

Original Application No. 504/2009

This 13th the day of April, 2012

HON'BLE JUSTICE ALOK KUMAR SINGH, MEMBER (J)

HON'BLE SHRI S.P. SINGH, MEMBER (A)

Pramod Kumar Yadav, aged about 29 years, son of Late Bhagirathi Yadav, resident of Village-Padauli, Post-Bodarwar, District Kushi Nagar, presently residing at c/o Dr. H.K. Yadav, C-14,L-Road, Mahanagar, Lucknow.

Applicant

By Advocate Sri Dharmendra Awasthi.

Versus

1. Union of India, through the Secretary, Department of Personnel and Training, New Delhi.
2. The Regional Director, Central Region, Staff Selection Commission, Department of Personnel and Training, 8,A-B Beli Road , Allahabad-211002.

Respondents

By Advocate Sri S. P. Singh.

(Order Reserved on 10.4.2012)

ORDER

By Hon'ble Sri S. P. Singh, Member (A)

The applicant has instituted this O.A. seeking following relief(s):-

- (a) To quash the order dated 19. 1.2009, passed by the opposite party No. 2, which is contained as Annexure No. 1 to this original application.
- (b) To direct the opposite parties to conduct the skill test for the applicant.
- (c) To pass any other suitable order or direction which this Hon'ble Tribunal may deem, fit, just and proper under the circumstances of the case in favour of the applicant.
- (d) To allow the present original application of the applicant with costs.

2. The applicant applied for appearing in the examination named "Tax Assistant (Income Tax and Central Excise) Exam-2004" which was advertised by the Staff Selection Commission through a notice appearing in Employment News for filling up 318 vacancies in

various Commissionerates of Central Board of Direct Taxes and Central Board of Excise and Customs. A electrostat copy has been filed by the applicant as Annexure-2 to the O.A. The prescribed Educational Qualification for the Tax Assistant Examination is Graduation in any discipline from any recognized University as on 1.8.2004. It is clearly mentioned in the Note 1 of para 6 of notice of the examination published in Employment News of 11-17 September 2004 that candidates who did not possess Graduation Degree as on 1.8.2004 were not eligible for the post and need not apply. It is also mentioned in sub-para 'b' of para 23 of the notice of the examination that "all original certificates will be checked at the time of skill test, and their candidature is subject to result of such scrutiny." Further, it is also clearly mentioned in the Note V under heading "Instructions Relating to Submission of Application" in the notice of the examination that "Those candidates who are called for the skill test will have to bring with them at the time of skill test all their Original Certificates along with legible self attested copy of each certificate as regards community status i.e. SC/ST/OBC etc. age, relaxation in age, education qualification, etc. in the prescribed proforma, wherever given."

3. He was allowed to appear in the said examination at Allahabad (Annexure-3 to the O.A) wherein, the applicant was allotted Roll No. 2415690. On the basis of his performance, the applicant was declared qualified in the written examination held in the month of December 2004. All such candidates including the applicant were also issued instructions before appearing in the skill test. Relevant instruction for such candidates in Part-III (Annexure-4) is reproduced below:-

"You are required to bring attested copies of the following Certificates/documents, along with the originals thereof, at the

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time of the Data Entry Speed Test, failing which you shall not be admitted to the Test:

1. Matric or equivalent Certificates in support of date of birth;
2. Education Certificate in support of education qualifications;
3. SC/ST/OBC/Ex-s/PH certificate in the prescribed format issued by the competent authority, in case you belong to any such category;
4. A recent passport size photograph."

4. During the course of verification of the original documents before skill test, it was found that the applicant did not have original/provisional degree certificate in original in support of his educational qualification. The applicant was asked to produce the original provisional degree certificate, but he failed to produce the same. Accordingly, he was not permitted to appear in the skill test scheduled to be held on 10.7.2005 as per the Memorandum dated 10.7.2005 given reasons for not allowing the applicant to appear in the said skill test (Annexure-6 to the O.A.). Thus aggrieved, the applicant filed O.A. No. 336/2005 before this Tribunal.

5. Thereafter the applicant filed O.A. 336/2005 before this Tribunal which passed order dated 4.11.2008 (Annexure A-8) as under:-

"When the representation of the applicant is still pending (Annexure-6) dated 10.7.2005 and in such circumstances, allowing the claim of the applicant in respect of his promotion etc., is not maintainable but in the interest of justice, the O.A. is disposed of with a direction to the respondents to dispose of the pending representation of the applicant (Annexure-6) dated 10.7.2005 as per rules with a reasoned order within a period of 3 months from the date of receipt of copy of this order. No costs."

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6. Accordingly, in compliance of this Tribunal's order dated 4.11.2008, the representation dated 10.7.2005 of the applicant was considered by the Staff Selection Commission and a well reasoned and speaking order was passed by it. The applicant was once again informed vide letter No. 2815/SCC-CR-2005-CC(268) dated 19.1.2009 (Annexure-1 to the O.A.). The present O.A. has been filed impugning this order of the Staff Selection Commission dated 19.1.2009 as above.

7. Heard the counsel for the parties and perused the material on record.

8. Admittedly, the Staff Selection Commission, issued advertisement inviting applications for Tax Assistant Examination 2004(a Group 'C" non Gazetted Ministerial Post) for filling up vacancies in various Commissionerates of Central Board of Direct Taxes and Central Board of Excise and Customs as mentioned above. The prescribed educational qualification for the Tax Assistant Examination was Graduation in any discipline from any recognized University as on 1.8.2004 as mentioned above.

9. The learned counsel for the respondents submitted that Staff Selection Commission is responsible for conducting the examination and all finally selected candidates of Tax Assistant Examination 2004 have already been nominated long before to the user department mentioned above based on the requisition placed by user department. It is further submitted that even nomination process of the subsequent Tax Assistant Examinations held in the year 2005, 2006 and 2007 have also been completed thereafter long before.

10. The respondents side submitted that the claim of the applicant that the Caste Certificate (OBC Certificate) was produced by him at the time of skill test but on scrutiny of documents, it was found that

the said caste certificate was not in prescribed Central Government proforma. This also goes to prove the carelessness and lapse on the part of the applicant. The applicant never produced original /provisional degree certificate in support of his educational qualification at the time of verification of original documents before skill test. He was asked to produce the original/provisional degree certificate, but he failed to produce the same. Therefore, the Commission has rightly not allowed the applicant to appear in the skill test as per the notice of the examination and the instructions issued to the candidates before appearing for the skill test which have already been dealt with in the foregoing paras. It is very clearly mentioned in sub para-B of Note IV of Para 22 of the notice that " all original certificate will be checked at the time of skill test and their candidature subject to the result of such scrutiny." In this regard, it is pertinent to mention that 1134 candidates were declared qualified from the Central Regional office of SCC and a number of the candidates who could not produce the original documents as per the notice of the examination were not allowed to appear in the skill test. Needless to say that the Commissionarate department for scrutiny of original documents at the time of skill test were experienced, competent and observed extreme caution before disallowing any candidate. The applicant himself accepted in para 4.14 of his earlier O.A. No. 336/2005 that there was a great rush of candidates and so many candidates had not brought their original certificates. Neither at the time of filing O.A. 336/2005 nor at the time of filing this O.A., the applicant could produce any evidence or record to prove the claim of the applicant that he had produced required documents at the time of scrutiny before the skill test.

11. The respondents have relied on a judgment delivered by the Hon'ble Punjab and Haryana High Court in Civil Writ Petition No.

472

13688 of 2001 decided on 6.12.2001, wherein Hon'ble High Court observed that "it is a settled rule of law that terms and conditions of brochure are binding and must be adhered to by all concerned. The obligations placed upon an applicant/candidate as per the brochure have to be discharged in the form and manner prescribed therein."

The copy of the order dated 6.12.2001 passed in Civil Writ Petition No. 13688 of 2001 is annexed as Annexure CR-1 to the Counter Reply.

12. We have also taken note of the status of the recruitment process as of today on the basis the submissions of the learned counsel for the respondents regarding completion of the process of recruitment launched with the said advertisement mentioned above. Thereafter, even, the appointments in the later years of 2005, 2006, and 2007 have been completed. The terms and conditions included in the advertisement giving notice to the candidates were widely known as it was published in the Employment News of 11-17 September, 2004. Further, all the candidates who were declared qualified in the written examination held in the month of December, 2004 were issued instructions to be complied before appearing in the skill test. It was clearly mentioned under these instructions in para-3 (Annexure-4) which is produced as under:-

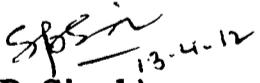
"You are required to bring attested copies of the following Certificates/documents, along with the originals thereof, at the time of the Data Entry Speed Test, failing which you shall not be admitted to the Test:

1. Matric or equivalent Certificates in support of date of birth;
2. Education Certificate in support of education qualifications;
3. SC/ST/OBC/Ex-s/PH certificate in the prescribed format issued by the competent authority, in case you belong to any such category;
4. A recent passport size photograph."

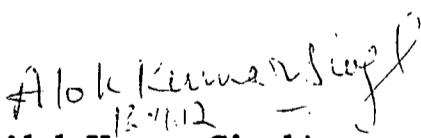
51

13. As pointed out by the respondents that while filing O.A. 336/2005, the applicant himself had accepted in Para 4.14 of O.A. 336/2005 that there was a great rush of candidates and so many candidates had not brought their original certificates. The applicant could not produce original/provisional degree certificates when he was asked to produce the same by the authorities. His representation in this regard has also been considered by the Commission in compliance of this Tribunal's order dated 4.11.2008 giving comprehensive reasons therein. The applicant filed contempt petition for non-compliance of this Tribunal's order dated 4.11.2008 concealing the fact that the respondents have complied this Tribunal's order dated 4.11.2008 by issuing their order dated 19.1.2009. When a detailed reply was filed by the respondents submitting all the facts to this Tribunal, this Tribunal dismissed the contempt petition vide its order dated 18.8.2009. In light of the ruling in the cited case i.e. Civil Writ Petition No. 13688/2001 decided by the Hon'ble Punjab and Haryana High Court on 6.12.2001 mentioned above annexed as Annexure CR-1 to the counter affidavit, we find that the O.A. does not have merit and deserves to be dismissed considering the position stated in foregoing paras.

14. Considering the facts and circumstances mentioned above, we do not find any merit in this O.A and the O.A. is accordingly dismissed. No order as to costs.


(S. P. Singh)

Member (A)


(Justice Alok Kumar Singh)

Member (J)