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CENTRAL GOVERNMENT TRIBUNAL, DELHI
CIVIL SERVICE, LUCKNOW

Registration No. 276/1990(L)

Subhash Chand Garg

Applicant.

versus

J.P.S.C. New Delhi and another

Respondents.

Hon. Mr. Justice K. Math, Vice Chairman.

Hon. Mr. M.M. Singh, Jdt. Member.

(By Hon. Mr. M.M. Singh, Jdt. Member.)

The applicant's case is that he had appeared for the 1985 Civil Services (Preliminary) Examination only and ⁱⁿ 1987, 1988 and 1989 for Preliminary as well as the Main examinations of the Civil Services Examination. However, while furnishing information about himself for 1987, 1988 and 1989 examinations he did not think it necessary to mention that he had appeared for the 1985 Preliminary Examination as his impression was that appearing for the preliminary examination alone was not counted as an attempt and only when a candidate appears in the preliminary as well as the main examination it was counted as an attempt. The J.P.S.C. Order according to his not mentioning his appearance for the 1985 examination issued him a show cause notice dated 17.12.83 (Annexure A-5) asking him to show cause why his candidature should not be taken against/for his infringing ^{him} ~~under~~ rules 4 and 13 of the rules for the Civil Services (Main) Examination, 1989 published in the Gazette of India (Extraordinary) dated 17.12.83 and pages 4 and 5 of the notice.

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for the Civil Services (Preliminary) Examination, 1989 published in Special Supplement of the Employment News dated 17.12.88. The applicant submitted his reply dated 7.2.90 (Annexure-7) to the said notice admitting the omission to mention his appearing for the 1985 examination but explaining the circumstances under which the same happened. He attributed the lapse to his error of judgment and misinterpretation of Rules. Thereafter, the U.P.S.C. issued their decision dated 16.4.90 (Annexure-I) to the effect that the Commission did not find the explanation of the applicant satisfactory and therefore, decided to debar him from the U.P.S.C. examinations and selections for a period of three years with effect from 23.3.90 and to cancel his candidature for the 1989 main examination also. The applicant, aggrieved by this order filed this application seeking direction to quash Annexure-I and direction to the U.P.S.C. to let the applicant enjoy his last attempt for the next Civil Services Examination when conducted by the U.P.S.C.

2. We have heard Shri S.N. Srivastava, learned advocate for the applicant and perused the record.

3. The grounds advanced for the two reliefs are that : (i) the U.P.S.C. frequently changed the eligibility criteria which confused candidates; (ii) the punishment the U.P.S.C. awarded is disproportionate as debarring for three years is to result in debarring the applicant for ever from appearing in the examination; (iii) the form the applicant had filled for the 1985 Examination having been found proper by the U.P.S.C. and his candidature allowed, the U.P.S.C. was estopped from cancelling the candidature; and (iv) with the 1990

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amendment of the rules, four attempts ^{became} ~~were~~ available to candidates the advantage of which change should be made available to him with retrospective effect. For ground (iii) here, the Supreme Court judgment in Sri Krishan v. Kurukshetra University (AIR 1976 SC 376) has been relied upon and for ground (iv) Kattan Lal v. State of Punjab (AIR 1965 S.C. 444) has been relied upon.

4. The first ground has little strength as ^{de} ~~is~~ not feel that frequent changes in the rules regarding eligibility should ^{or} ~~cause~~ such enormous confusion in the minds of candidates as to make it difficult for them to enumerate the year(s) of their having appeared for the Civil Service Service Examination in the past. If at all, the ground could be taken into consideration by the UPSC to decide appropriate punishment while considering the reply of the applicant to the UPSC notice and does not, by itself, completely absolve the ^{applicant} ~~respondent~~ from the responsibility of suppressing the information which, if not suppressed, would have resulted in the rejection of his application for permission to sit for the 1989 examination. That brings us to the second ground namely, the alleged disproportionately harsh punishment about which we are of the view that once the applicant's lapse has been established and orders passed by the UPSC it is not for the Tribunal to modify the order of the UPSC on the ground that the same is harsh. This Tribunal has no appellate jurisdiction over such orders of the UPSC. Regarding the third ground, namely the operation of the rule of estoppel, it is clear to us that facts as transpired before the UPSC regarding the number of attempts the applicant had made and the number having been found to be one more than was disclosed by the applicant (which is

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admitted by the applicant though he has offered an explanation for the same) the UPSC's sanction to the applicant's candidature for the ~~year~~ 1989 Examination came to be given because of the suppression of the information. The benefit of the rule of estoppel does not accrue to the applicant in these circumstances. The facts of Shri Krishna case, ^{referred} ~~supra~~, ^{relied} upon by the learned advocate for the applicant are entirely different from the facts of the applicant's case. ^{namely} regarding the fourth ground, increasing to four the available number of attempts from the earlier three by the decision notified in 1990, ^{it} does not help the applicant. His case in 1989 is required to be appreciated and decided in the light of the 1989 rules as - rightly in our view - done by the UPSC. The facts of Rattan Lal's case, ^{it} ~~supra~~, are marked by distinguishable from the facts of the applicant's case. By increasing the number of attempts from three to four the UPSC did not act in the realm of criminal law but merely made one more opportunity available to the candidates from 1990, ^{it} ~~has~~ no bearing on the applicant's case dependent as it is on the rules before that. In fact, by 1989, the applicant had already availed of four attempts though the benefit of 1989 attempt came to be denied to him in view of the fact that he had suppressed the information regarding his 1985 attempt and only three attempts were allowed in the rules then valid.

5. In view of the above, we find that the applicant's case does not ^{it} ~~deserve~~ further consideration. We, therefore reject his application at the admission stage without any order as to costs.

M. K. Swam -
Mem. Member. 2/11/90
Secy. Secy. 1990

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Vice Chairman.