

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 276 of 1988 90 (6)

APPLICANT(S) Subhash Chandra Garg

RESPONDENT(S) U.P.S.C.

Particulars to be examined

Endorsement as to result of examination

- | | | |
|-----|---|-----|
| 1. | Is the appeal competent ? | yes |
| 2. | a) Is the application in the prescribed form ? | yes |
| | b) Is the application in paper book form ? | yes |
| | c) Have six complete sets of the application been filed ? | yes |
| 3. | a) Is the appeal in time ? | yes |
| | b) If not, by how many days it is beyond time? | |
| | c) Has sufficient case for not making the application in time, been filed? | yes |
| 4. | Has the document of authorisation/ Vakalatnama been filed ? | yes |
| 5. | Is the application accompanied by B.D./Postal Order for Rs.50/- | yes |
| 6. | Has the certified copy/copies of the order(s) against which the application is made been filed? | yes |
| 7. | a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? | yes |
| | b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? | yes |
| | c) Are the documents referred to in (a) above neatly typed in double space ? | yes |
| 8. | Has the index of documents been filed and paging done properly ? | yes |
| 9. | Have the chronological details of representation made and the outcome of such representation been indicated in the application? | yes |
| 10. | Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal? | No |

(A1)
Central Administrative Tribunal
Lucknow Bench
Date of Filing
Date of Receipt
27/8/90
27/8/90
Deputy Registrar
27/8

(A-2)

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Particulars to be Examined

Endorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed ?
12. Are extra copies of the application with Annexures filed ?
- a) Identical with the Original ?
- b) Defective ?
- c) Wanting in Annexures
- Nos. _____ pages Nos _____ ?
13. Have the file size envelopes bearing full addresses of the respondents been filed ?
14. Are the given address the registered address ?
15. Do the names of the parties stated in the copies tally with those indicated in the application ?
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?
17. Are the facts of the case mentioned in item no. 6 of the application ?
- a) Concise ?
- b) Under distinct heads ?
- c) Numbered consecutively ?
- d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for indicated with reasons ?
19. Whether all the remedies have been exhausted.

yes Original and Bench copy

yes

No

yes

yes

yes

yes

yes

No

yes

dinesh/

27/8

Put up before
see before Bench
on 17.9.90 for main
27/8/90

CA 276/90 C1

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17-9-90

No setting Adj to 24-9-90

24-9-90

No setting Adj to 10-10-90

10-10-90

No setting Adj to 26-10-90

26-10-90

No setting Adj to 19-11-90.

19/11/90

Hon. Mr. Justice K. Math, Jc.
Hon. Mr. M. M. Singh, Jm.

Recd the learned counsel
for the applicant. The
order will be pronounced
on 21/11/90. Order reserved.

H. M. Singh
Jm.

V.C.

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(45) #3

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, J.P.S.C. Member.

(By Hon. Mr. M.M. Singh, J.P.S.C.)

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. being 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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10/11/90

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~~, ^{referred} 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. 10/11/90

Vice Chairman.

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To,

The Registrar,

FORM II

See Rule 4(4)

Receipt Slip

Receipt of the application filed in
the Central Administrative Tribunal,
bench by Shri/Kum./Smt.....
working asin the
Ministry/Department/Office of
..... is residing
at
is hereby acknowledged.

For Registrar
Central Administrative Tribunal
.....Bench

Date:
Seal:

B

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[Handwritten mark]

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW

REGISTRATION NO. 276 OF 1990 (L,

SUBHASH CHAND GARG

...

PETITIONER

VERSUS

UNION PUBLIC SERVICE COMMISSION

& ANOTHER

...

RESPONDENTS

COMPILATION NUMBER

'I'

Application)

LUCKNOW

DATED: 27.8.1990.

[Signature]

(S.N.SRIVASTAVA)
COUNSEL FOR PETITIONER

[Signature]

(A1)

[Handwritten mark]

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW

I N D E X

IN

COMPILATION NUMBER-1

IN

REGISTRATION NO. 276 OF 1990 (L)

SUBHASH CHAND GARG

... PETITIONER

VERSUS

UNION PUBLIC SERVICE COMMISSION & ANOTHER .. RESPONDENT

Application

1-16

Filed today

SEP
27/8/90

DATED 27/8/90

noted for 17/9/90
21/8/90

[Signature]

(S.N. SRIVASTAVA)
Advocate,
COUNSEL FOR THE PETITIONER

[Signature]

A12

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IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW

REGISTRATION NO.

OF 1990

(DISTRICT : LUCKNOW)

SUBHASH CHAND GARG, aged about 26 years,
son of Shri Darshan Lal, resident of
18/223, Indira Nagar, Lucknow.

... PETITIONER

VERSUS

1. UNION PUBLIC SERVICE COMMISSION,
through its Secretary, Dholpur
House, New Delhi;
2. UNION OF INDIA, through its
Secretary, Ministry of Personnel,
Public Grievances & Pensions,
Department of Personnel and
Training. New Delhi

... RESPONDENTS

DETAILS OF APPLICATION

1. That this application is directed against the respondents' impugned punishment order dated 16.4.1990 by which the respondents have cancelled the petitioner's candidature for Civil Services (Main) Examination, 1989 without declaring his result and has debarred the petitioner for three years from their examinations and selection with effect from 23.3.1990. A true copy of the impugned order dated

Signature of Subhash Chand Garg

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16.4.1990 is being annexed hereto as ANNEXURE NO.1.
Petitioner had appeared in the 1985 Civil Services (Preliminary) Examination under the impression that he is eligible to appear in the said examination. Later on the petitioner appeared in the Civil Services Examinations for 1987, 1988 and 1989 (in preliminary and main both) but he did not mention his appearance of 1985 Civil Services Preliminary Examination. The Petitioner was under impression that an attempt is counted only when a candidate appears in both the examinations like so many candidates. It is important to mention at this stage that prior to 1979 Civil Services Examination, there was no restriction regarding the number of attempts and restriction of three attempts was imposed from 1979 examination and from 1990^{and} onwards Civil Services Examination number of attempts have been raised to four and the candidate, who never got fourth opportunity to appear in Civil Services Examination have been allowed by respondents to appear in 1990 Civil Services Examination. In view of the above facts, the cancellation of 1989 Civil Services Examination's candidature of the petitioner and further imposition of debar of three years for an act which is no more a wrong act is against the principles of natural justice, fundamental rights enshrined under the Constitution of India, hence respondents' impugned order dated 16.4.1990 be quashed or modified in order to give the fair opportunity to the petitioner in the interest of justice to do the justice with the hopeless petitioner.

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2. JURISDICTION OF THE TRIBUNAL

The petitioner declares that the subject

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matter of present claim petition, for which the petitioner wants redressal, is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION

The petitioner further declares that the application is within the limitation period prescribed under section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE

Facts of the case are given below:-

4.1 That the petitioner belongs to rural family of Haryana though he has a good academic record to his credit. He and his family ~~is~~ are not aware with the rules, technicalities of Civil Services Examination conducted by the respondents.

4.2 That in 1985 the petitioner appeared in Civil Services Preliminary Examination for 1985 but did not appear in the Main Examination. The petitioner then appeared in Civil Services Examination (Preliminary and Main) for the years 1987, 1988 and 1989.

4.3 That the petitioner was under the impression that each general candidate is entitled for three attempts for main and preliminary examination of Civil Services and one attempt is counted only when a candidate appears in Main Examination of the concerned year of Civil Services Examination.

4.4 That it is pertinent at this stage to give

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details of the system for the Civil Services Examination conducted by the respondent No.1. The respondent No.1 holds ~~of~~ Examinations for I.A.S., I.F.S., I.P.S., I.R.S. and other Class I and Class II services every year and the rules for examinations are framed with the consultation of the respondent No.2.

4.5 That prior to 1979, Civil Services Examinations were conducted on traditional basis and there was no restriction regarding the number of attempts and a candidate can avail any number of attempts provided he is within the age group of 21 to 26 years.

4.6 That from 1979 new examination pattern for Civil Services Examinations was introduced and under the new scheme to be held, examination in two parts - preliminary examination and main examination for each year Civil Services Examination and other notable changes introduced were as :-

- (a) That number of attempts restricted from unlimited attempts to three only for general candidates;
- (b) That upper age limit for general candidates raised from 26 years to 28 years.
- (c) That if a candidate appears in preliminary examination, it would be counted as one attempt.

Signature

4.7 That these changes had created a lot of confusion to the prospective candidates and many of them became the victims of the new changes and it has mostly affected the candidates of rural backgrounds or

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the candidates belonging to ordinary families having no proper guidance being their parents unaware with the complicity of examination system for such a highest service of the Nation.

4.8 That for the year 1985 Civil Services Examinations, respondents again reduced the upper age limit to 26 years from 28 years but due to various writs in various High Courts, respondent raised the upper age limit to 28 years for the 1985 Civil Services Examinations.

4.9 That for the 1986 Civil Services Examination, respondents again reduced the upper age limit to 26 years but again due to various writs in High Courts, respondents raised the upper age limit to 28 years for 1986 Civil Services Examinations.

4.10 That for the 1987 Civil Services Examinations, respondents again reduced the upper age limit to 26 years and this time matter could not be properly followed, hence upper age limit remained 26 years for 1987 Civil Services Examinations. This change in upper age limit created a confusion in the mind of petitioner that due to new upper age limits introduced from 1987 Civil Services Examinations, attempts would be counted from 1987 and onwards examinations, like the earlier decision of respondents in 1979 when respondents changed the upper age limit from 26 years to 28 years when they had started counting the number of attempts from 1979 and onwards Civil Services Examinations and a candidate could enjoy three attempts

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from 1979 and onwards examinations irrespective of attempts taken by him prior to 1979 Civil Services Examinations.

Under this impression, the petitioner appeared in the Civil Services Examination for 1987, 1988 and 1989 to exhaust his three attempts.

4.11. That respondent announced in the first week of January, 1990 that for Civil Services Examinations upper age limit would be 26 years and maximum number of attempts to three for General category candidates.

From the perusal of sub-paras 4.8 to 4.9, it is quite clear that a lot of confusion was created among the candidates regarding the number of attempts and so many candidates became the victims of their frequent changes in the eligibility criteria for Civil Services Examinations by the respondents. This led to agitation by the affected candidates and respondents were forced to raise the upper age limit to 28 years from 26 years and increase the number of attempts from three to four in order to compensate the candidates for one extra attempt by a notification in the second week of February, 1990. A true copy of the notification ~~in~~ of January, 1990 and February, 1990 are being annexed as ANNEXURE NOS. 2 & 3 respectively to this petition.

Refer

But this notification could not do justice with all the victimized candidates, hence respondents issued another notification in the month of March, 1990 raising the upper age limit to 31 years for this year

year Civil Services Examination to do justice with remaining affected candidates. A true copy of the notification of March, 1990 is being annexed hereto as ANNEXURE NO.4.

But this also could not do justice with all the affected candidates and a lot of petitions have been filed in the Central Administrative Tribunal, Allahabad and Delhi for redressal as getting fourth attempt and respondents in fact allowed the all candidates, who have not exhausted their four attempts so far, and had submitted the form for Civil Services Examination, 1990 but they have not given this time general information like the earlier notification. Interim order in Writ Petition No. OA 745/90 to 753/90 is being annexed hereto as ANNEXURE NO.5.

4.12 That respondent No.1 issued a show cause notice dated 24.1.1990 to the petitioner for not mentioning the 1985 Preliminary Examination in 1989 Civil Services Examination form. Respondent's show cause notice dated 24.1.1990 is being annexed hereto as ANNEXURE NO.6. Since the Civil Services (Main) Examination form consists of about 20 or more pages, petitioner could not give specific reply to the allegations but being the petitioner honest, he admitted that he had appeared in 1985 Preliminary Examination also and pleaded that he took 1989 examination under wrong impression and requested the authorities to take sympathetic view in the light of respondents' notification in February, 1990, March, 1990 thereby increasing the number of attempts to

four for Civil Services Examination. The petitioner's reply dated 7.2.1990 to the respondents is being annexed hereto as ANNEXURE NO.7.

4.13 That after getting the reply of petitioner, respondents imposed the two punishments by order dated 16.4.1990, which are as follows:-

- i) debarring the petitioner to appear in any examination and selection, held by them for a period of three years with effect from 23.3.1990.
- ii) cancelled the candidature for Civil Services Examination (Main), 1989.

4.14 That it is important to mention at this stage that this decision has been taken only keeping in mind the number of attempts as three while the respondents have now increased the number of attempts to four and this year allowed all the candidates who have taken so far only three attempts irrespective of age. Keeping in view respondents' conduct with rest of the candidates and punishing so severely and marring whole life of a ignorant, honest candidate for a fourth attempt which is no more a wrong act and is a legal attempt, the punishment imposed by the respondents is not proportionate with the mistake committed by the petitioner and is liable to be quashed or modified.

4.15 That petitioner's date of birth is 3.7.1964 and according to new recruitment rules for Civil

Services Examinations a candidate can appear in it upto 28 years of age which is calculated from 1st August of the year of Main Examination. Hence the petitioner can avail only the attempt of 1991 Civil Services Examination if there is no restriction on him by respondents in normal course while the restriction is to continue upto 22.3.1993 according to impugned punishment order.

4.16 That it is also relevant to mention at this stage that the petitioner had filled up the form for Civil Services Examination (Preliminary), 1989 in the month of January, 1989 and after proper scrutiny through computer, they found it correct and allowed the petitioner to appear in the 1989 Civil Services (Preliminary) Examination and then in Civil Services (Main) Examination, 1989. According to rule 11 for the Civil Services Examination, 1989 published in Extra-ordinary gazette dated 17.12.1988, which is as "Rule-11- The decision of the Commission & as to the eligibility or otherwise of a candidate for admission to the examination shall be final."

The petitioner appeared in the examination after getting valid permission after due scrutiny by respondents, hence respondents estopped by their *Refers* conduct keeping in view the principle of estoppel and they cannot cancel the petitioner's candidature for 1989^{Main} Examination for their carelessness. Rule 11 is the mandatory provision and respondents cannot escape from their liability and duty of checking the form properly before allowing the candidate even if

the petitioner was ignorant or failed to mention his earlier attempts in the form.

4.17 That the provisions of scrutiny of form is a mandatory provision and ^{when} ~~if~~ the respondents found the candidate not eligible for the examination, they ~~would have issued~~ a letter of rejection mentioning the cause to the applicant. A rejection letter of the respondents to a candidate of 1987 Civil Services (Preliminary) Examination is being annexed hereto as ANNEXURE NO.8. The petitioner was never issued the letter of rejection after filling the form ~~of~~ for Civil Services (Preliminary) Examination, 1989 and Main Examination, 1989 which assured the petitioner that he was eligible and appeared in the said examination. Hence now respondents are estopped to take any action against the petitioner, therefore, the punishment imposed by respondents is void and illegal and should be quashed.

4.18. That it is very important to mention at this stage that Hon'ble Supreme Court of India in Ratanlal Vs. State of Punjab (AIR 1965 SC 444) has held that the beneficial provision of ~~ex post~~ facto law can be given to offender even though that was not available at the time of commission of wrong act. This spirit ^{before} of observation of the Hon'ble Supreme Court should have been followed by the respondents in the petitioner's case because now respondents have allowed four attempts to candidates of Civil Services and respondents have punished the petitioner for taking fourth attempt. Hence on this ground also punishment

does not sustain on the principles of natural justice, equity and fair play and is also in violation of fundamental rights ~~of the~~ enshrined under the Constitution of India.

4.19 That from the perusal of whole facts, it is quite clear that respondents failed to apply the mind properly in the case of the petitioner and the punishment imposed by respondents are not only too harsh but impropportionate to the mistake committed by the petitioner. Even respondents failed to realise the mistake committed by them by not scrutinizing the form properly and even further failed to realise that fourth attempt has now been legalised by them and hence no harsh punishment is desirable, hence impugned punishment order dated 16.4.1990 is not only arbitrary but is void also being absent with the application of mind by the respondents and this has also violated the principles of natural justice in the ~~absence~~ of proper reason given by them. Thus fundamental rights of the petitioners have also been violated. Hence the petition be allowed and impugned order dated 16.4.1990 be quashed in the interest of justice and the petitioner be allowed to appear in the next Civil Services Examination and his result of 1989 Civil Services Examination be also declared.

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5. GROUNDS

A. Because the respondents have created a lot of confusion in eligibility criteria for Civil Services Examination more than ten times within a span of ten years from 1979 and under confusion violation of rule

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the cancellation of
petitioner's candidature for
1989 Exam,

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of attempt by petitioner does not warrant/with further bar for three years from 23.3.1990 ~~is~~ from their examinations and selection.

B. Because punishment imposed by the respondents is impropportionate to the mistake committed by the petitioner.

C. Because the respondents have not applied its mind judiciously and properly and have not given the reason, hence punishment imposed by respondents is not only illegal, void but also against the principles of natural justice, equity and fair play.

D. Because it is the duty of the respondents to scrutinize the form and reject or accept the same. As the respondents failed to scrutinize the form and decision of respondents allowing the petitioner to appear in Civil Services (Main and Preliminary) Examinations, 1989 is binding on them also and now they are by their conduct estopped from cancelling the candidature of the petitioner form 1989 Examination and imposition of further punishment of debar for three years on the principles of estoppel.

Debar

E. Because the respondents are also bound by the rule 11 of Extra-ordinary Gazette dated 17.12.1988 for Civil Services Examinations, 1989 and hence impugned order of punishment is not sustainable on this ground also.

F. Because the respondents have now raised the

number of attempts to four for Civil Services Examination from 1990 and for 1990 examination, they have allowed all the candidates who have not taken four attempts so far. Hence the fourth attempt taken under mistake is no more a wrong act and thus respondents failed to apply its mind correctly and passed the impugned order arbitrarily violating the fundamental rights assured under the Constitution of India to the petitioner.

G. Because by debarring the candidate for three years from 23.3.1990 respondents have in fact debarred the petitioner for whole life from their selection and examination because the petitioner would be of 28 years of age by 2.7.1992 while the ban will continue upto 22.3.1993; hence the punishment imposed is greater in effect than actually imposed, hence illegal on this ground also and against the spirit of fair play, equity and principles of natural justice and provisions of Constitution of India.

Refuse
H. Because the petitioner is honest and has never tried to deceive the respondents or conceal the fact and confirmed the respondents' query regarding the attempt of 1985 examination, hence on this ground also impugned punishment is impropportionate and deserves to be quashed or modified.

I. Because the respondents have failed to give the benefits of beneficial provisions of ~~facto~~ ^{ex pect} law while considering the petitioner's case and imposing the punishment on him.

J. Because the punishment imposed by the respondents does not warrant keeping in view the whole facts and negligence done on the part of the respondents.

K. Because the punishment imposed by respondents is otherwise unfair, arbitrary, against the principles of natural justice, equity and fair play in the matter of public employment and has thus violated the fundamental rights of petitioner under the Constitution of India.

L. Because the act of the respondents is not fair but is arbitrary in the matter of opportunity of employment.

6. DETAILS OF REMEDIES EXHAUSTED

The petitioner has no remedy available to him apart from approaching this Hon'ble Tribunal under the Administrative Tribunal Act, 1985.

7. The petitioner further declares that he has not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any court or any other authority or any other Bench of Tribunal nor any such application, writ petition or suit is pending before any of them.

[Signature]

8. RELIEF SOUGHT

In view of the facts mentioned above, the petitioner prays for the following reliefs:-

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- (a) An order or direction of a suitable nature commanding the opposite parties to let the petitioner enjoy his last attempts for the next Civil Service Examination conducted by them.
- (b) An order or direction of suitable nature quashing the impugned punishment order dated 16.4.1990 (Annexure No.1) to this petition) be kindly passed.
- (c) Any other order or direction of suitable nature deems fit may kindly also be passed in favour of the petitioner and against the respondents.
- (d) allow the petition with costs.

9. INTERIM RELIEF

note

The petitioner does ^{not} pray at this ~~ex~~ stage any interim relief but reserves his right to move application at the proper time when it is needed.

10. Since the petitioner is moving this application through his counsel and the petitioner has signed also, this para is not applicable.

Refuse

11. PARTICULARS OF POSTAL ORDER FILED

Postal Order No.: 02 414 769

Date: 23/8/90

Issuing Post Office: High Court Branch Post Office
Lucknow

12. LIST OF ENCLOSURES

Enclosed in Compilation No. II.

\$

.16.

VERIFICATION

I, Subhash Chand Garg, aged about 26 years, son of Darshan Lal, resident of 18/223, Indira Nagar, Lucknow do hereby verify that the contents of all the paragraphs are true to my personal knowledge and that I have not suppressed any material facts.

LUCKNOW

DATED 27.8.1990.

S. Garg
(SUBHASH CHAND GARG)
PETITIONER

THROUGH:

S. N. Srivastava
(S. N. SRIVASTAVA)
Advocate.

S. Garg

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• • •

OF 1990

... PETITIONER

... RESPONDENTS

-

~~Seiass~~

Srini
(S.N.SRIVASTAVA)
Advocate

DATED 24.8.1990.

In The Honble Central Administrative Tribunal,
Lucknow Bench Lucknow.

Registration No. g 1990

(A29)

Subhash Chand Garg --- Petitioner

VERSUS
Union Public Service Commission
& another

--- Respondents

COMPILATION NUMBER

II

(List of Documents from
Annexures 1 to 8 are attached
Herewith)

Dated 27/8/90

Lucknow

S. N. Srivastava

S. N. Srivastava
(S. N. SRIVASTAVA)

ADVOCATE
COUNSEL FOR THE
PETITIONER

Shri Kishore Chandra Chaudhary (Candidate)
d/o Mr. B. K. Chaudhary

Registration No. 110

3/11/90

(Dist. Lucknow)

Union Public Service Commission

Union Public Service Commission, Lucknow

Amritsar, 11/11/90

A30

No.F.2(1)/90-E.III (R.No.20841)
Union Public Service Commission
Dholpur House, Shahjahan Road.

Regd.A.D.

No. Delhi-110011, the 16.4.90

Shri Subhash Chand Garg,
KABARD, Commerce House
Hajrat Ganj, P.B. No.364
Lucknow-226 001.

Subject:- Civil Services (Main) Examination, 1989.

SIR,

With reference to your candidature for the above mentioned examination and your letter dated 7.2.90, I am directed to say that your explanation has not been found satisfactory. The Union Public Service Commission have, therefore, decided to debar you from their examinations and selections for a period of three years with effect from 23.3.90. Your candidature for the Civil Service (Main) Examination, 1989 has also been cancelled.

Yours faithfully,

Hakam Singh

(Hakam Singh)

Under Secretary

Union Public Service Commission.

Attested

Sefary

Special Supplement

NEW DELHI. 30 DECEMBER 1963 - 20.00

NOTICE



CIVIL SERVICES EXAMINATION, 1990

- | | |
|---------|--|
| (vi) | Indian Customs and Excise Service, Group A. |
| (vii) | Indian Defence Forces Service, Group A. |
| (viii) | Indian Revenue Service, Group A. |
| (ix) | Indian Ordnance Corps Service, Group A (Assistant Mainframe Technician) |
| (x) | Indian Postal Service, Group A. |
| (xi) | Indian Civil Accounts Service, Group A. |
| (xii) | Indian Railway Traffic Service, Group A. |
| (xiii) | Indian Railway Accounts Service, Group A. |
| (xiv) | Indian Railway Personnel Service, Group A. |
| (xv) | Posts of Assistant Security Officers, Group A in Railway Protection Force. |
| (xvi) | Indian Defence Estates Service, Group A. |
| (xvii) | Indian Information Service (Junior Grade), Group A. |
| (xviii) | Central Trade Service, Group A, (Grade III) |
| (xix) | Posts of Assistant Accountant, Group A in Central Industrial Security Force. |
| (xx) | Central Secretariat Service, Group A (Section Chief Grade) |
| (xxi) | Railway Secretariat Service, Group A, (Section Chief Grade) |
| (xxii) | Armed Forces Headquarters Civil Service, Group A, (When Civil Officer Grade) |
| (xxiii) | Central Secretariat Service, Group B |
| (xxiv) | Police and other services in the Federated States of India |

India

Age Limits

(3) A candidate must have attained the age of 21 years and must not have attained the age of 26 years on 1st August 1960 i.e. he must have been born not later than 27th August, 1964 and not earlier than 1st August, 1969.

b) The upper and lower relaxations are

upto a maximum of five years. A candidate belongs to a Scheduled Caste or a Scheduled Tribe

(ii) upto a maximum of three years if a candidate is a **bona-fide** displaced person from erstwhile East Pakistan (now Bangladesh) and had migrated to India during the period between 1st January, 1954 and 25th March, 1971.

(iii) upto a maximum of eight years if a candidate belongs to a Scheduled Caste or a Scheduled Tribe and is also a bona-fide displaced person from erstwhile East Pakistan (now Bangladesh) and had migrated to India after the partition between 1st January 1947 and 15th March 1971.

(iv) Up to a maximum of 1000 Indians of a particular caste or community are eligible to be considered as a candidate for a vacant post in the selection of prospective immigrants for emigration from Sri Lanka and are designated as India or of India after 1st November, 1954 or is to migrate to India, under the Indian Act, on Agreement of October, 1954.

repatriate of Indian origin (Indian passport holder) as also a candidate holding an agency certificate issued to him by the Indian Embassy in Vietnam and who arrived in India from Vietnam not earlier than 1975.

[illegible]

into a maximum of five years of service of ex-servicemen including common assignment Officers and ECOs/SSCOs who were rendered at least five years Military Service as on 1st August, 1990 and have been released (i) on completion of assignment (including those whose assignment is due to be completed within one year from 1st August 1990) otherwise than by way of dismissal or discharge on account of "conduct or inefficiency, or (ii) on account of physical disability attributable to "any Service or (iii) on invalidment.

up to a maximum of ten years in the case of a serviceman including combat-related injuries, and (ii) on account of the death of a SFCO/SSCO who belonged to the Scheduled Castes or the Scheduled Tribes and who have rendered at least ten years Military Service as on 1st August 1990 and have been released from detention of assignment (including those in servment) is due to be met within one year from 1st August 1990 in the way of direct financial aid on account of economic hardship, or (iii) on account of disability attributable to Military service, or (iv) on invalidment.

AND DATA SHOULD NOTE THAT
IN THE CASE OF A RECORDED
THE PATRIOTISM SECONDARY EX
NATION CERTIFICATE OR AN
EQUIVALENT CERTIFICATE ON THE BASIS
OF BASIS OF APPLICATION WILL BE AC
CEPTED BY THE COMMISSION AND NO SUB
FOR THE PURPOSES OF THIS CHARTER WILL

[illegible][illegible]

Job on 12/15/64 after availing of the
 to draw the 100% servicemen for their
 If you want to go to the age comes-
 (xx) above.
 SAVE A PRO-AGE MOVE THE AGE
 LIMITS OF DISCHARGE IN NO CASE BE
 DEFERRED



UNION PUBLIC SERVICE COMMISSION

NOTICE

CIVIL SERVICES EXAMINATION, 1990

IMPORTANT ANNOUNCEMENT

The Government of India have decided to raise the upper age limit prescribed for admission to the Civil Services Examination from 26 to 28 years. The upper age limit will be relaxable, as usual, for S.C., S.T. and other categories specified in the rules. It has also been decided to increase the number of attempts from 3 to 4. In pursuance of this decision, the Union Public Service Commission have extended the last date for receipt of applications for the Civil Services (Preliminary) Examination, 1990 to 21st February, 1990 (28th February, 1990 in the case of candidates residing in Assam, Meghalaya, Arunachal Pradesh, Mizoram, Manipur, Nagaland, Tripura, Sikkim, Ladakh Division of J & K State, Lahaul and Spiti District and Pangi Sub-Division of Chamba district of Himachal Pradesh, Andaman and Nicobar Islands or Lakshadweep and for candidates residing abroad from a date prior to 21st February, 1990 and whose applications are received by post from one of the areas mentioned above.) All other conditions relating to the Civil Services Examination, 1990, as notified earlier in the Employment News/Rozgar Samachar and prominent daily newspapers in their issues dt. 30th December, 1989, will remain unchanged. Brief particulars as well as Application Form/Attendance sheet for the examination are again published herewith. FOR COMPLETE DETAILS CANDIDATES MAY PLEASE REFER TO THE EMPLOYMENT NEWS/ROZGAR SAMACHAR DT. 30TH DECEMBER, 1989.

handwriting with ball-point pen. They may also use the application form

Subhash Chandra Singh (M.B.A.)
discussed about LUCKNOW

Registration No

91990

(DISH - LUCKNOW)

A32

4



Subhash Chandra Singh
Vs

Union Public Service Commission & others

Annexure No. 3

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attested

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EN 49/3

2. The Honble Court of Administrative Tribunal (Lucknow Bench) Lucknow

Registration No.

3/1990

(DISH - LUCKNOW)

(A3W) 6

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Sudhish Chandra Chay
Vs

Union Public Service Commission (and others)
Annexure - No. 5

Page No. _____

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

ON 24/04/1990
Shri. Bhashin Singh

19 90

Sh. P. Nath

APPLICANT(S)

COUNSEL

VERSUS

D.O. & O.P.S.
RESPONDENT(S)

COUNSEL

Date	Order Report	Order
		<p>30-4-90</p> <p>applicant through Shri P. Nath, Counsel. heard and learned counsel.</p> <p>Admit.</p> <p>Issue notice to the respondents to file their counter-affidavit within four weeks with a copy to the applicant, who may file rejoinder, if any, within two weeks there- after. List before the Deputy Registrar(J) on 17-7-1990</p> <p>As regards interim relief, issue notice to the respondents returnable on 10.5.90. In the meanwhile the respondents are directed to provisionally allow the applicant to appear in the Civil Services(Preliminary examination) 1990 to be held by the Union Public Service Commission as per Annexure-IV to the application.</p> <p>Issues passed.</p> <p>(S.K. Chandra Chay) MEMBER</p> <p>(P.K. KARTHA) VICE CHAIRMAN</p> <p><i>[Handwritten signature]</i></p> <p><i>[Handwritten signature]</i></p> <p><i>[Handwritten signature]</i></p>

14-5-1991

OF 745/90
CA 746/90
CA 747/90
CA 748/90
CA 749/90
CA 750/90
CA 751/90
CA 752/90
CA 753/90

Present

Shri P. Nat, Counsel for the applicant,

None present for the respondents despite service of notice on them dasti. The learned counsel for the applicant undertakes to file an affidavit in proof of service on the respondents within 3 days. The interim order already passed will continue until further orders.

A copy of the order be given dasti to the learned counsel for the applicant.

(D.K. CHAKRAVORTY)
MEMBER (A)

(P.K. KARTHA)
VICE CHAIRMAN

Refuse

Ch. He. W.
S

2. The Honble Chief Commissioner (Public Service)
Lucknow and District Commissioner
Registration No. 110 3/1990
(DISH - LUCKNOW)

(A36)

24

Subhash Chand Gang
vs
Union Public Service Commission & another
Annexure No. 6

संख्या
Grant

: UNISERCOM

REGISTERED, A.D.
संख्या
No. F.2/1(1)/90-E.III

संघ लोक सेवा आयोग

धौलपुर हाउस
शाहजहाँ रोड

UNION PUBLIC SERVICE COMMISSION
(SANGH LOK SEVA AYOGE)
DHOLPUR HOUSE, SHAHJAHAN ROAD

सेवा में
To

नई दिल्ली-110011
New Delhi-110011

24.1.90

Sri Subhash Chand Gang,
KABARD, Commerce House,
Hazrat Ganj, P.Box No. 304,
Lucknow:- 226 001.

Subject:- Civil Services (Main) Examination, 1989.

Sir,

With reference to your candidature for the above mentioned examination, I am directed to say that in Col. 27(a) and 27(b) of your application, which required you to state the number of times you had appeared at the Civil Services (Preliminary) Examination held in 1979 and thereafter including the current examination held in 1989 and to write the years of the examination in which you appeared, you have written 3 in column 27(a) and the years 87, 88 and 89 in column 27(b). In column 29 which required you to give particulars of Union Public Service Commission examinations/recruitments by selection applied for/appeared including the Civil Services Examination you have submitted no information in respect of the Civil Services (Preliminary) Examination, 1985. At the end of the application you have signed a declaration that all statements made by you are true, complete and correct to the best of your knowledge and belief, that you have read Rule 13 of the Rules for the examination and understood that in the event of any information being found false or incorrect or ineligibility being detected before or after the examination action could be taken against you by the Commission. You have further declared that you fulfil all the eligibility conditions regarding age limits, education qualifications etc. prescribed for admission to the examination and that you had not exhausted the number of attempts admissible to you under Rule 4 of the Rules for the Examination. It has, however, been verified from the records of this office that besides being a candidate for Civil Services (Preliminary) & (Main) Examination, 1987 (Roll No. 103344), Civil Services (Preliminary) & (Main) Examination, 1988 (Roll No. 13189) Civil Services (Preliminary) & (Main) Examination, 1989 (Roll No. 20841), you were also a candidate for the Civil Services (Preliminary)

Refers

attch

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Contd....p...2/-....

A37

145

-: 2 :-

1985 (roll No. 80624) and had also appeared thereat.

2. (a) You, therefore, seem to have knowingly suppressed in your application information regarding your previous candidature in respect of the Civil Services (Preliminary) Examination, 1985, and

(a) made mis-statements in your application regarding your previous candidature mentioned above in order to gain unauthorised admission to the Civil Services Examination, 1989.

3. You have, thus clearly infringed rules 4 and 13 of the Rules for the Civil Services (Main) Examination, 1989 which appeared in the Gazette of India Extraordinary dated 17.12.1988, a copy of which was supplied to you alongwith the blank application form and instructions contained in para 4 and 6 of the Notice for the Civil Services (Preliminary) Examination, 1989, which appeared in the Special Supplement of the Employment News dated 17.12.1988.

4. You are, therefore, required to show cause why action should not be taken against you under Rules 4 & 13 of the Rules for the Civil Services (Main) Examination, 1989 published in the Gazette of India Extraordinary dated 17.12.1988 and para 4 and 6 of the Notice for the Civil Services (Preliminary) Examination, 1989 published in Special Supplement of Employment News dated 17.12.1988.

5. Your reply to this letter must reach the Under Secretary, Union Public Service Commission (to be addressed to the undersigned by name) latest by 7.2.1990 on or after which date the Commission shall proceed further in the matter as they deem fit without any further reference being made to you.

Yours faithfully,

Hakam Singh

(HAKAM SINGH)
Under Secretary,
Union Public Service Commission.

Signature

24/12/88

8

The Honble Chief Minister, Government of Uttar Pradesh
Lucknow

Registration No.

3/1990

(DISH - LUCKNOW)

10032
10032

Public Service Commission
Vs

Union Public Service Commission, Lucknow

Annexure 7

New Delhi

Dated the 7th Feb., '90

To

Shri Nakan Singh,
Under Secretary,
Union Public Service Commission,
New Delhi - 110 011

Sir,

Re :- Civil Services (Main) Examination, 1989

Please refer to your letter No.F.2/1(1)/90-E.III dated 24.1.1990 on the subject mentioned above. This is a fact that I had appeared in 1985 Civil Services (P) Exam. However, I did not qualify in the said examination and hence was not eligible for appearing in the main examination in 1985. As this attempt of mine in 1985 was only for the Preliminary Examination, I was under the impression that it will not be counted as an attempt for the purposes of eligibility for civil services examination. However, after receiving your show-cause notice, I have gone through the rules of this examination as referred to in your above mentioned letter. Now I stand guided that even an attempt in the preliminary examination is counted as an attempt in the examination. However, at the time of filling up the application form due to an error of judgement and misinterpretation of the rules I did not mention my attempt of 1985 in my application.

I would like to further submit that recently the Govt. has increased the number of attempts for the said examination from three to four. In the light of this, the Commission may kindly take a sympathetic view in my case.

Thanking you,

S. Singh

Yours faithfully,

(SUBHASH CHAND) GARG

a Hester

Sh. Ram Karan vs Union Public Service Commission (w/o No. 209801)

Registration No.

3/1990

(Dist. Lucknow)

A39

Sh. Ram Karan vs

Union Public Service Commission (w/o No. 209801)

Annexure 8

REGISTERED

NO. CS(P)/ROLL NO. 107648 /87--E. III
UNION PUBLIC SERVICE COMMISSION

Dholpur House, Shahjahan Road

NEW DELHI-110011, the 2.4.87

To Sh. Ram Karan
Dist. Supply Officer,
Dist. Unnao. 209801

Sir/Madam,

Your application for the Civil Services (Preliminary Examination, 1987) has been rejected for the following reason(s) (as ticked) :-

overage much after all being
Spec. exam.

- (i) Not within the Prescribed age limits
- (ii) Prescribed fee not paid.
- (iii) Optional subject not indicated.
- (iv) More than one optional subject indicated.
- (v) Optional subject indicated not one of the prescribed optional subjects.
- (vi) Photographs not affixed on the application and attendance sheet
- (vii) Educational eligibility condition not fulfilled.
- (viii) Application not on the format prescribed for Civil Services (Preliminary) Examination, 1987
- (ix)

I am to inform you that no further correspondence or clarification in the matter will be entertained.

Yours faithfully,
VN

Under Secretary,
Union Public Service Commission.

MGIPF 831UPSC/86-6,000-5-2-87.

Accepted
\$

Due

Handwritten signature/initials

सं. वि० मे० (मा०) /पञ्चमो/१७ प०
लोक सेवा आयोग
प्रोत्तर हाउस, लालमोरी रोड, नई दिल्ली-११००५४

सेवा में

दिनांक: _____

महोदय,

वर्षात विहित सेवा (प्रारम्भिक) परीक्षा, १९८७ का निदेशित
निम्नलिखित कारण/कारणों (यथाचिह्नित) से परीक्षा स्थगित है।

- (१) विहित बाधकता के अन्तर्गत है।
- (२) विहित बाधकता अन्तर्गत नहीं है।
- (३) विहित बाधकता अन्तर्गत नहीं है।
- (४) विहित बाधकता अन्तर्गत नहीं है।
- (५) विहित बाधकता अन्तर्गत नहीं है।
- (६) विहित बाधकता अन्तर्गत नहीं है।
- (७) विहित बाधकता अन्तर्गत नहीं है।
- (८) विहित बाधकता अन्तर्गत नहीं है।
- (९) विहित बाधकता अन्तर्गत नहीं है।
- (१०) विहित बाधकता अन्तर्गत नहीं है।

यदि आप ऊपर दिए गए कारणों में से कोई एक कारण
अपना वास्तविक कारण नहीं समझते तो कृपया सूचित करें।

for

attached

Handwritten signature

In Mukerjee Court, Lucknow - 1990

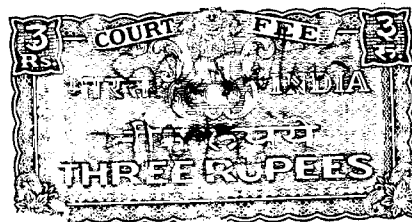
AM

Vakalatnama

for and on behalf of
petitioner Subhash Chandra

In the High Court of Judicature at Allahabad in

SITTING AT LUCKNOW



AG
↑

Subhash Chandra Garg

VERSUS

Union Public Service Commission & another

Registration No.

of 19 90

I / we the undersigned do hereby nominate and appoint Shri S.N. SRIVASTAVA
and Shri High Court Advocate

340 Sahjanpur Dist UNMAO (U.P.) Advocate, to

be counsel in the above matter, and for me / us and on my / our behalf to appear, plead, act and answer in the above Court or any Appellate Court or any Court to which the business is transferred in the above matter, and to sign and file petitions, statements, accounts, exhibits, compromises or other documents whatsoever, in connection with the said matter arising there from, and also to apply for and receive all documents or copies of documents, depositions, etc, etc, and to apply for issue of summons and other writs or subpoena and to apply for and get issued any arrest, attachment or other execution, warrant or order and to conduct any proceeding that may arise thereout and to apply for and receive payment of any or all sums or submit the above matter to arbitration.

Provided, however, that, if any part of the Advocate's fee remains unpaid before the first hearing of the case or if any hearing of the case be fixed beyond the limits of the town, then, and in such an event my / our said advccate shall not be bound to appear before the court and if my / our said advccate doth appear in the said case he shall be entitled to an outstation fee and other expenses of travelling, lodging, etc Provided ALSO that if the case be dismissed by default, or if it be proceeded ex parte, the said advocate(s) shall not be held responsible for the same. And all whatever my / our said advocate(s) shall lawfully do, I do here by agree to and shall in future ratify and confirm.

ACCEPTED :

Accepted
27/10/90

1rAdvocate

2-Advocate

Signature of Client 27/8/90
(Subhash Chandra Garg)