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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH: HYDERABAD

O.A. NO. 407 of 1989.

T. A. NO.

DATE OF DECISION 8.5.1990.

S.N.Badrinath

Petitioner

Shri M.Surrender Rao,
Advocate.

Advocate for the
petitioner (s)

Versus

The Secretary,
Ministry of Personnel, Public Grievances & Pensions,
Department of Personnel & Training, New Delhi
& another

Respondent

Shri N.Bhaskar Rao,
Addl. CGSC

Advocate for the
Respondent (s)

CORAM

The Hon'ble Mr. **D.Surya Rao** : Member(Judl).

The Hon'ble Mr. **R.Balasubramanian** : Member(Admn).

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not?
3. whether their Lordship wish to see the fair copy of the Judgment?
4. whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice-Chairman on columns 1,2,4, (To be submitted to Hon'ble Vice-Chairman where he is not on the Bench)

No

HDSR
M(J)

HRBS
M(A)

(31)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.407 of 1989.

Date of Judgment 8.5.1990.

S.N.Badrinath

.. Applicant

Versus

The Secretary,
Ministry of Personnel,
Public Grievances &
Pensions,
Department of Personnel &
Training,
New Delhi
& another

.. Respondents

Counsel for the Applicant : Shri M.Surrender Rao,
Advocate.

Counsel for the Respondents : Shri N.Bhaskar Rao,
Addl. CGSC

CORAM:

Hon'ble Shri D.Surya Rao : Member(Judl).

Hon'ble Shri R.Balasubramanian : Member(Admn).

[Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn)]

This is an application filed under section 19
of the Administrative Tribunals Act by Shri S.N.Badri-
nath against the Secretary, Ministry of Personnel,
Public Grievances & Pensions, Department of Personnel &
Training, New Delhi and another, seeking a direction
that ^{certain} ~~the~~ provisions in the rules for the conduct of the
Civil Services Examination be set aside.

2. The applicant with a brilliant academic career
appeared for the Civil Services Examination, 1988.

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He passed the preliminary examination and was admitted to the main examination. He was not called for the interview which precedes the final selection. He addressed a letter to the Union Public Service Commission requesting them to intimate the marks obtained by him to enable him to ask for re-valuation and also sought to know why he had not been called for the interview. He received a reply dated 10.5.89 from the Union Public Service Commission stating that he had failed to obtain qualifying marks in the compulsory Hindi Language paper and that his other papers had not been considered on account of this failure to qualify in this compulsory Hindi Language paper.

3. The applicant states that in the course of his academic career he had secured high marks in Hindi and as such was surprised that he could not qualify in the Hindi examination conducted by the Union Public Service Commission. He has also stated that there is no qualifying marks as such prescribed under the rule and that it had been left to the will and discretion of the Union Public Service Commission. He is aggrieved that the Union Public Service Commission had fixed the qualifying marks arbitrarily in the bargain smashing the chances of many bright people like him of ^{getting} ~~to get~~ selected finally. It is his fear that they had fixed an unduly high qualifying mark. It is also

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his point that the cut-off mark should have been given in the notification so that the candidates could aim at getting such marks. He also alleges that there is no objective in view, while fixing the qualifying mark.

4. He has prayed that this tribunal declare the provision contained in note (ii) of section 11(B) to Appendix-1 of the Rules for the competitive examination illegal and arbitrary. He has also sought for a direction declaring that the communication dated 10.5.89 from the Union Public Service Commission, stating that he had failed in the compulsory Hindi Language paper leading to refusal to evaluate other papers, as illegal.

Rs

5. The respondents have opposed the prayer. In the counter affidavit they had indicated the genesis for the rules. In 1974 the Govt. of India appointed what was known as the Kothari Committee which, after a detailed study, had made certain recommendations for streamlining the Civil Services Examination. The Government, after scrutinising those recommendations, have finalised the examination rules. It is the contention of the respondents that the emphasis on the Language paper is quite in order and that the standard fixed for qualifying is such that it is not difficult for a person with a reasonable proficiency in the Language, to clear the paper. They have also stated that the answer books

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of the applicant had been carefully checked to ensure that all answers written by him had been duly evaluated, the totals have been correctly arrived at, that these have been properly transposed and that there is no flaw in the valuation of the paper.

6. They have also contended that the Commission is under no obligation to disclose the minimum qualifying standard for the papers which are of a qualifying nature.

7. We have examined the case and heard the learned counsels for both the applicant and the respondents.

The questions before us are:

- (a) Whether the impugned section of the rules under which the examination is conducted is good in law,
- (b) Whether the minimum mark fixed is reasonable,
- (c) Whether the respondent is right in refusing to publicise the minimum qualifying marks, and
- (d) Whether the Hindi paper of the applicant has been valued properly.

8. According to the rules, the compulsory Language paper, which is the ~~main~~ subject matter in this case, is just a qualifying one. The marks obtained in this paper will not be counted for ranking the candidate which is far more vital ^{after one qualifies in the language paper.} But unless a candidate qualifies in this paper his other papers will not be evaluated as such evaluation is of no use when a candidate has failed even to qualify in this compulsory Language paper. This provision has been made after detailed examination

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of the Kothari Committee's recommendations. The Union Public Service Commission had later given an explanatory note indicating how the minimum marks for qualifying in the Language paper has been fixed. We find the basis for fixing the qualifying mark acceptable

9. We find that many points raised in this case have already been covered in considerable detail by the Principal Bench in a batch of cases (O.As No.816/87, 879/87, 1010/87, 538/87, 539/87 and 621/87) in their judgment dated 22.8.88. The Principal Bench had held that the discretion and the powers conferred upon the Union Public Service Commission to fix the minimum standard for qualifying in the compulsory subject are not violative of any fundamental rights under Article 14 of the Constitution. They had also observed that it is not open to the applicants having appeared in the examination and failed, to challenge the validity of the very rules under which the examination was held.

We respectfully agree with the conclusion of the Principal Bench and hold that there is no illegality in the section of the rules sought to be struck down.

10. The next question is whether the standard fixed by them has been unduly high and harsh even though the Union Public Service Commission has got the power and discretion to fix the standard. ~~As stated at para-8,~~ The standard fixed is such as would not come in the way of a person with Matric level of proficiency clearing the paper without any difficulty. Hence the standard fixed is quite reasonable, as indicated in para 8.

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11. The next question that the applicant has raised is that the minimum qualifying standard should be made known to the candidates before hand. On this point again the Principal Bench had held that the Union Public Service Commission need not announce before hand the minimum qualifying mark in the compulsory paper. We would only add that in a way the minimum standard is already publicised in the rules in that the standard expected of the candidates is that of Matriculation. So long as the minimum qualifying marks fixed by the Union Public Service Commission is such as would not exceed the Matric standard, there can be no grievance on this point. We therefore agree with the Principal Bench decision that the Union Public Service Commission need not publicise the qualifying mark to be obtained.

12. We have also seen the answer book of the applicant in this particular paper and we agree with the statement made by the respondents that all answers had been valued and the totalling correct. There being no provision as such for re-valuation we are satisfied that the paper has been properly valued.

13. In the course of the hearing the learned counsel for the applicant alleged that the Union Public Service Commission changes ^{the qualifying marks} ~~this~~ minimum standard for the qualifying examination from year to year resulting in bright candidates like the applicant not reaching the goal. We have seen from the judgment of the Principal Bench and also the explanatory note of the

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Union Public Service Commission that this allegation is not correct and the minimum ^{mark} standard fixed has not been altered in recent times.

14. Summing up, we find that the provisions in the rules for the conduct of the examination are quite in order, that the minimum mark fixed for the qualifying examination is well within the standard indicated and that the answer book of the candidate had been properly valued.

Under the circumstances we find no scope to interfere and therefore the application is liable to fail.

The application is accordingly dismissed. There will be no order as to costs.

D. Surya Rao
(D.SURYA RAO)
Member (Judl).

R. Balasubramanian
(R.BALASUBRAMANIAN)
Member (Admn).

Dated 8th May 1990

S. Suresh Kumar
For Deputy Registrar (J)

To:

1. The Under Secretary, (Government of India) Ministry of Personnel, Public Grievances & Pensions (Dept. of Personnel & Training) New Delhi.
 2. The Under Secretary, Union Public service commission Dholpur House, Shahjahan Road, New Delhi.
 3. One copy to Mr. M. Surrender Rao, Advocate, Plot No. 5-C, Bagh Amberpet, Durgabai Deshmukh colony, Hyd., A.P.
 4. One copy to Mr. N. Bhaskara Rao, Addl. CGSC, CAT, Hyderabad.
 5. One spare copy.
 6. One copy to Hon'ble Mr. R. Balasubramanian, Member: (A), CAT, Hyd.
- kj.