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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A.No.1689 of 1997.

Date of Order :- 31st August, 1998.

Between :

Kumari I. Madhavi, D/o Subba Rao,
Hindu aged about 26 years,
Unemployee, R/o Mutlur (V),
Guntur District. ... Applicant

And

The Union Public Service Commission,
represented by its Secretary,
Dholpur House, New Delhi-110 011. ... Respondent

Counsel for Applicant : Mr. S. Gopal Rao.

Counsel for Respondent : Mr. N.R. Devaraj, Sr. CGSC

CORAM :

THE HONOURABLE MR. JUSTICE D.H. NASIR, VICE-CHAIRMAN

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

O R D E R.

(Per Hon. Mr. Justice D.H. Nasir, Vice-Chairman)

1. Heard Mr. S. Gopal Rao, learned Counsel for the applicant and Mr. N.R. Devaraj, learned Standing Counsel for the respondent.
2. The question for our consideration in this O.A. is, whether a restriction could lawfully be made on the number of attempts in respect of an O.C. candidate for appearing at the Civil Services Examination ?
3. The case of the applicant Kumari I. Madhavi, in short, is that she belongs to O.C. category and had appeared at the Civil Services Examination on four occasions which, according to rules, was the maximum number of attempts which an O.C. candidate could be allowed. This restriction on the number of attempts as far as the OBC candidates are concerned, is extended upto seven attempts and in case of S.C. and S.T. candidates, there is no restriction at all on the number of such attempts.

4. Mr. S. Gopal Rao, learned counsel for the applicant, submitted that restricting the number of attempts in case of O.C. candidates was highly unjust and according to him, before completion of age limit of 28 years, as many number of attempts as could possibly be made, should be allowed to the applicant.

5. Mr. N.R. Devaraj, learned Standing Counsel for the respondent, vehemently opposed ~~to~~ the proposition made on behalf of the applicant that no restriction should be made on such number of attempts as far as the O.C. candidates are concerned and they should be allowed to appear at the Civil Services Examination as many times as possible within the age limit of 28 years prescribed for the O.C. candidates. He invited our attention to the notification published in the Employment News Special Supplement dated 29th November-5th December, 1997 in which this restriction on the number of attempts is laid down. The same is extracted and reproduced below :

"(iv) Number of attempts :

Every candidate appearing at the Civil Services Examination, who is otherwise eligible, shall be permitted four attempts at the examination.

Provided that this restriction on the number of attempts will not apply in case of Scheduled Caste and Scheduled Tribe candidates who are otherwise eligible.

Provided further that the number of attempts permissible to candidates belonging to Other Backward Classes, who are otherwise eligible, shall be seven."

Mr. Devaraj, learned Standing Counsel submitted that it was evident from the language used in the above notification that the maximum number of attempts in case of all candidates which could be allowed was limited to four. However, in case of O.B.C. candidates, the rule was relaxed so as to allow seven attempts to them in all; and as far as S.C. and S.T. candidates are concerned, there was no restriction on number of attempts. According to Mr. Devaraj, no discrimination was caused to the applicant in view of the relaxation made in case of O.B.C., S.C. and S.T. candidates. The relaxation was allowed keeping

in view the requirement of relaxing the conditions of appointment for the purpose of the boost to be given to the weaker sections of the society. He further stated that this was a policy framed by the Government which was subsequently given the form of statutory rules and it was not in order for the Tribunal to review the policy matter of the Government which has acquired the status of statutory rules.

6. We are inclined to accept the above submissions made by Mr. Devaraj, learned Standing Counsel for the respondent. We see no reason to disagree with the submissions made by him that the number of attempts restricted to four in case of O.C. candidates was the main and principal condition. Such number having been increased in case of OBC and SC & ST candidates was in the nature of relaxation which cannot be altered or annulled or set aside by the Tribunal, particularly when it has taken the form of statutory rules.

7. The Principal Bench of the Central Administrative Tribunal, New Delhi, by its order dated 24.4.1992 in O.A. No. 742/92, while considering more or less the similar point, made certain observations which are reproduced below :

" The procedural changes made in regard to the number of chances and the age limit from time to time have been made by the respondents, keeping in view all relevant factors and they have been made equally applicable to all equally placed persons. Such a classification has been held to be permissible within the framework of the Constitutional provisions, as it is meant to advance larger social objective. The applicant has not been able to demonstrate to our satisfaction that the classification made by raising the age and by increasing the number of chances is bad in law, irrational and therefore illegal. We are, therefore, not inclined to favour judicial interference in this matter."

In a subsequent decision of the Principal Bench of the C.A.T. dated 10.6.1994 in O.A. No. 1058/94, the Bench observed that the applicant in that case had not produced any reasonable ground to show that the restrictions imposed on upper age

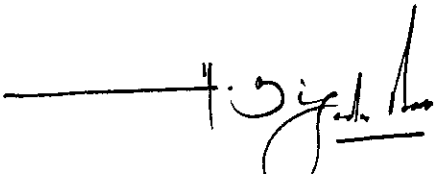
limit or the number of attempts were capricious or whimsical. The restrictions were palpably justified and they were not wide off any reasonable mark. There had been no complaint in this regard to either in the public or in Parliament. The absence of such complaints was prima facie proof of reasonableness of the restrictions. The impugned notice, therefore, could not be held to be violative of Article 14 of the Constitution.


8. A two-Judge Bench of the Hon'ble Supreme Court in SLP Nos. 16920-24, 18762/94 and 18885-86/94 observed in the order dated 21.11.1994 that the Constitution itself recognises the distinction between the Scheduled Caste, Scheduled Tribe and the other Backward Classes in the matter of reservation. Merely because reservations were kept or concessions were given to the Scheduled Caste and Scheduled Tribes which were not extended to the OBCs, the reservations and the concessions did not become discriminatory. Eventually the Hon'ble Supreme Court held that the respondent Union of India had filed an affidavit in which it was pointed out that the number of candidates belonging to OBCs who had qualified to appear for the preliminary examination was ten times the number of posts; and that if in the circumstances, the Government had not thought it necessary to relax the upper age limit for the OBCs, it could not be said that the Government had not applied its mind. The Hon'ble Supreme Court also observed that it was not obligatory on the Government to keep reserved posts in its services. To what extent within the constitutional limits spelt out, in what manner and in which of the services, the reservation should be kept was a matter for the Government to decide, taking into consideration all the relevant factors; and the Hon'ble Court did not give any direction to the Government to keep reservation or in what manner and the extent to which it should be kept.

9. Thus it becomes abundantly clear from the aforesaid two decisions of the Principal Bench of this Tribunal as well as the decision of the Hon'ble Supreme Court that relaxation as regards the number of attempts made in case of OBC, S.C. and S.T. candidates could not be treated as discriminatory ^{or} ~~and not~~ causing any prejudice to the present applicant and the right of the Government to make such relaxation either in the number of attempts or in the age for the purpose of appearing at the Civil Services Examination cannot be altered or annulled by the Tribunal under the facts and circumstances of the case before this Tribunal.

10. The proposition as advanced by the learned counsel for the applicant that restricting the number of attempts in case of O.C. candidates was highly unjust and that before completion of the age limit of 28 years, as many number of attempts as could possibly be made should be allowed to the applicant, surpasses all cannons of reasonableness and ^{the principles} equity ~~of justice~~ and good conscience. 7

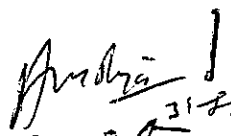
11. In the result, therefore, the O.A. is dismissed. No order as to costs. M.A.No.691/98 also stands disposed of accordingly.


(H. RAJENDRA PRASAD)
MEMBER (ADMN.)


(D.H. NASIR, J.)
VICE-CHAIRMAN.

Dated the 31st August, 1998.

DJ/


Deputy Registrar

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05/9/98

I COURT

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COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE D.H. NASIR

VICE-CHAIRMAN
AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

DATED: 31-8-1998.

ORDER/JUDGMENT

M.A./R.A./C.A.No.

in

O.A.No.

1689/97.

T.A.No.

(w.p.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

pvm.

