

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

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**ORDERS OF THE BENCH**

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**Date of Order: 09.12.2014**


OA No. 559/2013

Mr. Abhishek Sharma, counsel for applicant.  
Mr. Mukesh Agarwal, counsel for respondents.

Arguments heard.

Order reserved.

  
(ANIL KUMAR)  
ADMINISTRATIVE MEMBER

  
(B. V. RAO)  
JUDICIAL MEMBER

Kumawat

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH, JAIPUR.

**ORIGINAL APPLICATION No. 559/2013**

**ORDER RESERVED ON 09.12.2014**

**DATE OF ORDER : 12.12.2014**

CORAM :

**HON'BLE MR. B.V. RAO, JUDICIAL MEMBER**

**HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER**

Lala Ram Yadav son of Shri Chhitar Mal Yadav, aged about 34 years. Resident of Village Sewapura, Post Kadera, Tehsil Chaksu, District Jaipur. Present local address is D-112-C, Lal Kothi Marg, Siwar Area, Bapu Nagar, Jaipur.

... Applicant

(By Advocate: Mr. Abhishek Sharma)

Versus

1. Union of India through Secretary, DOP & T Department, New Delhi.
2. Union Public Service Commission through its Secretary, Dholpur House, Shahjahan Road, New Delhi.
3. The Controller of Examination, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi.

... Respondents

(By Advocate: Mr. Mukesh Agarwal)

**ORDER**

**PER HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER**

The applicant has filed the present OA praying for the following reliefs:-

- “(i) The Hon'ble Tribunal may be pleased to call for the original record of the case and after examining the same be pleased to quash the order dated 18.2.2013 (Annexure-I) passed by the respondents.
- (ii) That the respondents may kindly be directed to look into the matter and re-assess the marks of the applicant of Paper II of the Preliminary Exam of Civil Service Exam-2011 on the basis of representation made by the applicant and key supplied by the respondent UPSC.
- (iii) The respondents may kindly be further directed that on reassessment if the marks of the applicant are found higher than the marks of the last candidate selected in the OBC category than

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proper process be adopted for the applicant for his appearing in the Main Exam of Civil Service Exam 2011 by holding the same separately for the applicant.

- (iv) The respondents may kindly be further directed to decide the representation dated 11.07.2012 made by the applicant.
- (v) Any other prejudicial order to the interest of the applicant, if any passed during the pendency of the application, may kindly be taken on record and be quashed and set aside.
- (vi) Any other appropriate order or direction which may consider just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.

2. The main contention of the applicant in the present OA is that he appeared in the preliminary examination of the Civil Service Examination for the year 2011. The result of the preliminary examination was declared on 18.08.2011. The applicant was declared failed in the Preliminary Examination 2011. The applicant preferred an OA No. 488/2011 before this Tribunal but the same was withdrawn vide order dated 24.10.2011. The applicant filed a representation dated 19.02.2012 to respondent no. 2. The applicant received a reply from UPSC on 05.03.2012 stating that no information can be provided at this stage as process of selection of Civil Service Examination is still going on. Subsequently the applicant received one letter dated 20.06.2012 from UPSC along with key of Paper I & Paper II of the Preliminary Examination 2011. On evaluation, the applicant came to know that in Paper II, 49 answers were right and 16 answers of the applicant were wrong. Thus he should have been given 109.17 marks whereas he was given 24.18 marks. Therefore, he submitted a representation to the UPSC requesting to re-assess the answer sheet of Paper II. When no action was taken by the respondent no. 2, he again failed an OA No. 23/2013 by which a direction

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was issued to the UPSC to decide the representation of the applicant within two months. In compliance of these directions, the UPSC decided the representation of the applicant vide order dated 18.02.2013 stating that the copies have been destroyed as per Record Retention Schedule. Whereas the Schedule also says that if there is litigation in the case of any of the candidates then the copies of such candidate are to be retained as such. In the present case the applicant filed first OA in the year 2011; hence, respondent UPSC was well aware of the fact that there is litigation with regard to the applicant. Therefore, the copies of the applicant should not have been destroyed.

3. On the other hand, respondent no. 2 (UPSC) and respondent no. 3 (the Controller of Examination, UPSC) have submitted their reply. In their reply, they have submitted that UPSC in a calendar year handles more than 21 lakhs answers sheets/ answer book through its structured examinations. The number of candidates applying for the Commission's examination is increasing drastically and this is creating, inter-alia, challenges in logistics/record management. Hence Record Retention Schedule has to be dynamic and records are managed in such a way to facilitate storage of current records/ making available space for records of upcoming examinations. As per instruction issued by Commission regarding period of retention of various record for the answer book/ answer sheet/ OMR sheets of candidates, the retention period is six months from the conclusion of examination or 45 days from the start of display of mark sheet on the Commission's website, whichever

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is later. Thus in view of the Instructions regarding retention of answer book/OMR sheets, as the OMR sheets of the Civil Services (Preliminary) Examination 2011 were weeded. The applicant was informed in this regard accordingly vide letter dated 18.02.2013 (Annexure A/1). Hence, the action of the respondents is just, proper and as per instructions in vogue. The respondents have enclosed the copy of the Record Retention Schedule at Annexure R/1.

4. The respondents have further stated that under RTI Act, the applicant was provided cut off marks and answer keys. Moreover, the process of Civil Services Examination 2011 has been completed and thus the OA has become infructuous.

5. The respondents have further stated in their reply that the contention of the applicant that he cleared the preliminary examination in last five attempts, therefore, it was not possible to remain unsuccessful in the Preliminary Civil Services Examination, 2011 is totally illusive, imaginary and without any basis. It is not necessary that if a candidate passed preliminary examination in the previous attempts, hence he would also pass in next attempt.

6. The respondents have stated that in the absence of OMR mark sheet, the assessment of the applicant for his marks, as prayed by him in the OA, is only misconceived and misleading. Therefore, the OA has no merit and it should be dismissed with costs.

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7. The applicant has filed the rejoinder.

8. Heard the learned counsel for the parties and perused the documents on record. The learned counsel for the applicant argued that applicant is a very bright student. He succeeded in five earlier attempts in the preliminary examination as well as in the final written examination but he could not succeed in interview. That the applicant is OBC candidate and the maximum age to appear in the Civil Service Examination is 33 years and he is entitled for seven maximum attempts in Civil Service Examination. The Civil Service Examination of 2011 was his last chance as it was his seventh attempt and he was crossing the age of 33 years. Therefore, irreparable loss would be caused to him if his copy for the Paper II is not re-valuated or in the alternative he is not given one more chance to appear.

9. On the contrary, the learned counsel for the respondents argued that under the rules, there is no provision for allowing any other chance except according to the rules. He reiterated that even if it is admitted that the applicant qualified in the written examination on the earlier occasions, it does not mean that he would have qualified in the preliminary examination of the Civil Services Examination 2011. The applicant has been informed that his OMR mark sheet has already been destroyed. In the absence of OMR mark sheet, no revaluation is possible. The OMR mark sheet has been destroyed as per Record Retention Schedule (Annexure R/1). Thus there is no illegality in

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the action of the respondents in destroying the OMR mark sheet of the applicant. Thus the OA has no merit.

10. Having heard the rival submissions of the parties and perusal of the documents on records, we are of the view that no relief can be granted to the applicant in the present OA. The UPSC has categorically stated that OMR mark sheets of the applicant have been destroyed. The learned counsel for the applicant submitted that OMR sheet has been destroyed against the rules because the applicant had earlier preferred one OA bearing No. 488/2011 before this Tribunal which was withdrawn vide order dated 24.10.2011 treating it as premature. Therefore, the UPSC was in the knowledge that the litigation is pending in this case. We have perused the file of OA No. 488/2011 filed by the applicant and from the perusal of the file, it is clear that notices were not issued to the respondents in that OA and it was not withdrawn by the applicant but was dismissed by the Tribunal as premature. Thus it cannot be said that UPSC had the knowledge of OA being filed by the applicant before the Tribunal and for that reason, it cannot be said that any litigation with regard to the applicant was pending at that point of time. Even for the sake of arguments, if it agreed that it has been destroyed against the rules; even then no order for revaluation can be given to the respondents at this stage. The respondents have categorically stated that process of Civil Service Examination 2011 has been completed. The allocation for the Civil Services Examination 2011 has also been completed and all the vacancies have been filled up.

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11. The respondents have stated that the Commission conducts these examinations in accordance with the condition of eligibility prescribed by the Government of India. These conditions of eligibility include age limit, minimum educational qualification, number of attempts etc. The Commission ensures that these conditions of eligibility are uniformly applied to all candidates taking a particular examination in a year. The rules for these examinations are framed and notified by the Government of India in the Department of Personnel & Training, who is the co-ordinating authority for these examinations. The Commission, in their turn, issues a Public Notice pursuant to the aforesaid statutory rules. The Commission has not been vested with the power to relax any provision of the said rule in a particular case or in a particular situation. These rules are statutory in nature. These rules are widely circulated and are known to the candidates applying for the examination. Therefore, no additional attempt is permissible to the applicant under these rules.

12. The learned counsel for the applicant has not been able to show any provision under the rules which provides for granting relaxation. In the absence of any provision for grant of relaxation, no positive directions can be issued by this Tribunal to the respondents to provide one additional chance to the applicant or to provide relaxation in the age limit to the applicant.

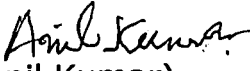
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13. In view of the fact that OMR mark sheet has been destroyed by the UPSC, the revaluation is also not possible.

Thus at this stage, the applicant cannot be granted any relief by the Tribunal.

14. Consequently, the OA being devoid of merit is dismissed with no order as to costs.

  
(Anil Kumar)  
Member (A)

  
(B.V.Rao)  
Member (J)

Abdul