

Central Administrative Tribunal
Principal Bench
New Delhi

O.A.No.1670/2016

Order Reserved on: 12.05.2016
Order pronounced on 31.05.2016

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Dr. Birendra Kumar Sinha, Member (A)

Chetan Joshi, Age 32 years, Software Engineer
S/o Mr. Mihir Joshi
R/o 6060 Village Bend Drive, APT # 2006, Dallas, 75206
US through his Special Attorney Prashant Singh
S/o Brijender Singh,
R/o D1-403, The legend, Sector 57
Gurgaon – 122 002. .. Applicant

(By Advocate: Shri Bhupender P. Singh)

Versus

1. Union Public Service Commission through
its Secretary, Dholpur House
Shahjahan Road
New Delhi – 110 069.
2. Department of Personnel and Training
Through its Secretary, North Block
New Delhi – 110 001. ... Respondents

(By Advocate: Shri R.V.Sinha and Shri Gyanender Singh)

ORDER

By V. Ajay Kumar, Member (J):

Heard Shri Bhupender P. Singh, the learned counsel for the applicant, and Shri R.V.Sinha and Shri Gyanender Singh, the learned counsel for the respondents, on receipt of an advance notice.

2. It is submitted that the applicant is a Civil Services aspirant and the details of his attempts for Civil Services Examination are as under:

i)	2011	-	Not applied
ii)	2012	-	Not applied
iii)	2013	-	Applied but not appeared
iv)	2014	-	Applied but not appeared
v)	2015	-	Applied and appeared but not selected

3. It is further submitted that the applicant is working as a Software Engineer at US and as his Flight got cancelled due to extreme weather on 23.05.2013, he could not appear in the Civil Services Examination-2013 which was held on 26.05.2013. In respect of the Civil Services Examination-2014, as there were wide-spread protests against the said Exam, calling for scrapping the CSAT Paper and postponing the Exam, and a litigation before the Hon'ble Apex Court for staying the said Exam, the applicant thinking that the said Exam would not be conducted, not travelled to India and accordingly not appeared, though applied for the same. In respect of Civil Services Examination – 2015, though he appeared for the same as the respondents changed the Scheme of the Exam by making the Paper-II as only a qualifying paper for the Civil Services Examination-2015, he could not be selected.

4. Accordingly, the applicant submits that he lost three attempts of the Civil Services Examination due to the acts of God, uncertainties in the pattern of the Exam, pendency of the judicial proceedings and due to a drastic change in the evaluation criteria, and hence, he is entitled for applying and appearing in the Civil Services Examination-2016, for which a Notification has been issued.

5. It is further submitted that this Tribunal in OA No.2615/2015 (**Tanu Sharma Vs. Union of India & Anr.**) and batch by its Order dated 27.10.2015 disposed of the said OAs with direction to respondent-DoP&T to examine whether even such candidates, who were eligible to take CSE-2011 or had taken 2012 or 2013 or 2015 Examination should also be given another chance to take Civil Services Examination with changed pattern in 2015 when the CSAT is made qualifying examination. On the same lines, the applicant is also entitled for taking another chance by appearing in the CSE-2016.

6. The learned counsel further submits that the Hon'ble High Court of Delhi in WP(C) No.4782/2010 dated 22.07.2010 (**Sourabh v. GNCT of Delhi & Others**) held that "The law has always recognized the principle of "act of god" or "force majeure" or "impossibility beyond human control"", and accordingly the applicant who could not appear due to the "act of god", in the year 2013, 2014 and 2015, is entitled for another chance by way of appearing in CSE-2016.

7. Per contra, the learned counsel for the respondents submits that the applicant has already availed all the chances entitled by him, as per rules, and cannot be permitted to appear again.

8. It is further submitted that once a candidate applies for Civil Services Examination of a particular year, whether he appeared or not, the same shall be reckoned in respect of his total number of attempts. It is also submitted that this Tribunal in OA No.2615/2015 and batch, considered the aspect of change in the examination pattern in the year

2011 and issued certain directions for those candidates who appeared for Civil Services Exam in any of the years of 2011, 2012, 2013 or 2014 and since the applicant not appeared in any of these examinations, the said decision has no application to the applicant's case.

9. The respondents further submit that the decision of the Hon'ble Apex Court in **Sourabh's** case, pertaining to the admission to MBBS Course in the University of Delhi. The rules applicable to Civil Services Examination are completely different and distinct to that of admissions to academic courses to the Universities. Hence, the said decision also has no application to the applicant's case.

10. The contention of the applicant that in the year 2014, though applied, he did not appear for the CSE-2014, as there were protests over change in the pattern and pendency of Court cases and hence, he is entitled for one more chance is untenable and unsustainable. Similarly, attributing the changes in the pattern and evaluation of Scheme of the exam, from 2011 to 2015, to his failure in the CSE-2015, is also equally untenable.

11. Further, as rightly contended by the respondents, the rules and the Scheme of CSE is completely different and distinct from the rules of Admission to academic courses in Universities, and hence, the decision of the Hon'ble High Court of Delhi in **Sourabh's** case (supra), cannot be made applicable to the applicant's case.

12. It is further seen that the applicant has not alleged violation of any statutory rule by the respondents. Neither he is able to show any rule in support of his case.

13. In the circumstances and for the aforesaid reasons, we do not find any merit in the OA and accordingly the same is dismissed. No costs.

(Dr. Birendra Kumar Sinha)
Member (A)

(V. Ajay Kumar)
Member (J)

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