

Central Administrative Tribunal  
Principal Bench: New Delhi

**OA No. 1010/2012**  
**MA No.3257/2013**

Reserved on: 12.02.2016  
Pronounced on:11.03.2016

**Hon'ble Mr. A.K. Bhardwaj, Member (J)**  
**Hon'ble Dr. B.K. Sinha, Member (A)**

Mr. Dileep G.  
R/o 38/R, CBI Residential Complex,  
Vasant Vihar,  
New Delhi -110 057  
India. ... Applicant

(By Advocate : Sh. Gaurav Kumar & Sh. Wills Mathews)

Versus

1. The Union Public Service Commission,  
Represented by its Chairman,  
Dholpur House, Shahjahan Road,  
New Delhi, India.
2. The Central Forensic Science Laboratory,  
Represented by its Director,  
Central Bureau of Investigation,  
Block IV, CGO Complex,  
Lodhi Road, New Delhi. ...Respondents
3. Anjali Yadav  
D/o Sh. Jagroop Singh,  
R/o 117A, New Colony,  
Gurgaon (Haryana).
4. Deepti Atul Puranik,  
D/o Sh. Atun Puranik,  
R/o139, Unity, Shivaji Park,  
Road No.5, Mahim,  
Mumbai – 400 016. ...Interveners

(By Advocates: Sh. R.N. Singh for official respondents.  
Sh. Gagan Gupta for interveners)

**O R D E R**

**By Dr. B.K. Sinha, Member (A):**

The grievance of the applicant in the instant Original Application filed under Section 19 of the Administrative Tribunals Act, 1985 is that he had been incorrectly judged ineligible to be considered for the post of Senior Scientific Officer Grade-II (SSO-II) giving rise to the issue as to whether he had three years of requisite experience, a necessary condition for eligibility, on the cut off date.

2. This Tribunal, while issuing notice to the respondents on interim relief on 27.03.2012, directed not to declare the result of the interview conducted by them. For the sake of better clarity, the relevant portion of the order reads thus:-

*“We have also heard the learned advocate for the applicant on the interim relief prayer. It has been stated in the OA that in pursuance of the notification issued by the UPSC, interview has already taken place, but till date result has not been declared and stay has been prayed to the effect that the result of the interview may not be declared. Issue notice to the respondents on the interim relief prayer. And till then, the result of the interview conducted by the respondents for the post of Senior Scientific Officer Grade II will be remained stayed.”*

3. In the meantime, MA No.1485/2012 came to be filed by two persons, namely, Anjali Yadav and Deepti Atul Puranik, who had also filed their respective Original Applications bearing OA Nos.339/2012 and 441/2012, for intervention, dismissal of the OA and for vacation of the above interim

order dated 27.03.2012 passed by the Tribunal as also MA No.1484/2012 moved on behalf of the UPSC (respondent no.1) for clarification of the interim order. The Tribunal, vide a common order dated 29<sup>th</sup> May, 2012, dismissed the OA and allowed both the two Miscellaneous Applications on the ground that the applicant had approached the Tribunal belatedly and ought to have approached this Forum prior to the interview being held. In this regard, we deem it necessary to extract from the order as under:-

*“5. We have considered the facts of the case and we are of the considered opinion that the OA is not maintainable. The applicant approached the Tribunal belatedly and according to the averments of the applicant the interview took place on 24.02.2012, whereas, the applicant approached the Tribunal on 23.03.2012. If the applicant was serious and fulfilling the requisite qualification then there was no reason for the applicant to wait up to 23.03.2012 when the interview had already taken place on 24.02.2012. Due to this reason, the OA is not maintainable. Moreover, the respondents informed the applicant that he is not fulfilling the requisite qualification of experience of 3 years and the order in this connection was passed by the UPSC on 7.03.2012. Shri R. N. Singh argued at this stage that the order dated 7.03.2012 is not challenged in the OA. Under these circumstances, we are of the confirmed opinion that the OA is not maintainable as the applicant has approached the Tribunal so belatedly. If there was any grievance of the applicant then he must approach the Tribunal prior to the date of interview. Other candidates also obtained the permission of the court to participate in the interview by the intervention of the Tribunal and applicant did not adopted that practice and he approached the Tribunal after the interview was held on 24.02.2012. Under these circumstances, we are of the opinion that the OA is not maintainable. Interim stay has already been obtained by the applicant for not declaring the result. The facts were not represented properly at the time of passing the order on 27.03.2012. The applicant was not fulfilling the requisite qualification of experience of three years and hence he was not eligible to participate in the selection. If he was ineligible then he has no justification to obtain the stay*

*order. Harassment has been caused to the other persons who have been selected in the original interview. We are not concerned that who were selected but whoever might have been selected then they should not have been harassed and put to a loss. It is causing day to day loss to the selected persons and the UPSC has also been dragged into unnecessary litigation.”*

4. Aggrieved by the Tribunal’s order, the applicant preferred WP(C) No.4619/2012 which was decided by the Hon’ble High Court vide order dated 30.01.2013 rejecting the view taken by the Tribunal while dismissing the OA and resultantly remanded the OA for fresh adjudication before the Tribunal. The relevant portion of the decision of the Hon’ble High Court reads thus:-

*“4. A perusal of the Original Application filed by the writ petitioner would reveal that on the subject of his having requisite experience of 3 years, the writ petitioner had made pleadings in para 4(B) of the Original Application and to make good the averments the petitioner was relying upon a certificate dated September 8, 2011 which had been annexed as Annexure P-2.*

*5. Regretfully, we find no discussion in the impugned order with respect to the pleadings and the document on which the petitioner was relying to make good the pleadings.*

*6. The Tribunal has also opined that the claim was belated.*

*7. Suffice would it be to state as far as the Central Administrative Tribunal is concerned it has to decide issues with reference to limitation and not whether claims are belated. Limitation to approach the Tribunal as per Section 21 of the Administrative Tribunals Act, 1985 is 1 year from the date when cause of action accrues. It is altogether a different issue for a fora to decline relief if third party rights have intervened; but with reference to facts and special equities. The same would have no concern with the bar of limitation.*

*8. Accordingly, noting that the applicant had approached the Tribunal within one month when cause*

*of action accrued to him, we dispose of the writ petition quashing the impugned order dated May 29, 2012.*

*9. OA No.1010/2012 is restored for fresh adjudication before the Tribunal.”*

5. It clearly emerges from perusal of the afore decision of the Hon'ble High Court that the issue of limitation not being pertinent to the case as held by the Hon'ble High Court, the decision has to be made in terms of eligibility of the applicant on the cut off date and one of the prime key documents to be considered is the Certificate dated 08.09.2011 issued by Dr. Asha Srivastava, Head of Forensic Psychology Division, CFSL/CBI, New Delhi.

6. The facts of the case, in brief, are that the applicant applied for the post of SSO-II (Lie Detector) in response to the advertisement dated 27<sup>th</sup> August – 2<sup>nd</sup> September, 2011 published in the Employment News which, *inter alia*, required three years experience in Applied Psychology or Criminology/ Crime Investigation as one of the two essential qualifications, the other being Master's Degree in Criminology or Psychology from a recognized University or equivalent. The applicant, not having been shortlisted for interview, submitted a representation dated 17.02.2011 to the Union Public Service Commission (respondent no.1) seeking opportunity to attend the interview. The applicant was informed vide letter dated 07.03.2012 that his

application stood rejected under the LEQ-B category as he had failed to meet the requirement of three years experience and that the interview had already taken place on 24.02.2012. Therefore, the applicant filed the instant OA before this Tribunal claiming that he had been working as Laboratory Assistant in the Forensic Psychology Division of the Central Forensic Science Laboratory, Central Bureau of Investigation, MHA since September 15, 2003 and was armed with a Certificate dated 08.09.2011 (Annexure P-2) issued by the Head of Forensic Psychology Division, CFSL, CBI, New Delhi. It is the contention of the applicant that the respondents had incorrectly excluded him from the short list prepared and has, therefore, prayed for the following relief(s):-

- “a). Pass an order directing the respondent No.1 to include the name of the petitioner in the list of candidates for interview for the post of Senior Scientific Officer Gr.II with the 2<sup>nd</sup> respondent and conduct a fresh interview;*
- b). Stay the operation of the result of interview conducted by the respondent for the post of Senior Scientific Officer Gr.II with the 2<sup>nd</sup> respondent and cancel the result;*
- c). Allow the OA with cost; and*
- d). Pass such other directions or orders as this Hon’ble Tribunal may deem fit and proper to meet the ends of justice.”*

7. The respondent no.1 in the counter affidavit stated that the applicant (Roll No.48) had not been summoned for interview as his application was rejected under the category of LEQ-B i.e. lacking experience as the experience possessed by him was not found relevant. The respondent further submitted that the result of the interview held for the post in the Commission on 24.2.2012 was not declared as the Tribunal in OA Nos. 339/2012 and 441/2012 filed by Ms. Anjali Yadav and Ms. Deepti Atul Puranaik (interveners) respectively ordered that the result of the respective Applicants therein may be kept in a sealed cover and the same be produced in the Tribunal on the next date of hearing i.e. 30.3.2012. OA No.339/2012 was finally heard on 30.03.2012 and the order was reserved whereas OA No.441/2012 was also finally heard on 30.03.2012 and the Tribunal has, *inter alia*, directed that the result of the Applicant therein be declared.

8. As we have already stated, the sole issue for determination is as to whether on the cut off date the applicant had the requisite work experience of three years in Applied Psychology or Criminology/ Crime Investigation. For the sake of greater clarity, the qualifications required for the post of Senior Scientific Officer Grade-II as per the advertisement are being extracted hereunder:-

- (i) *Master's Degree in Criminology or Psychology from a recognized University or equivalent;*
- (ii) *Three years experience in Applied Psychology or Criminology/ Crime Investigation.*

From the above, it is apparent that there were two qualifications required – (i) Master's Degree in Criminology or Psychology from a recognized University or equivalent; and (ii) Three years experience in Applied Psychology or Criminology/ Crime Investigation. We have also looked at the Certificate issued to the applicant by one Dr. Asha Srivastava, Head of Forensic Psychology Division, CFSL/CBI, New Delhi and for the sake of better clarity, we extract the relevant contents of the same as under:-

*"This is to certify that Mr.Dileep. G. S/o Mr. C.N. Gopalan has been working as Laboratory Assistant in the Forensic Psychology Division of this Laboratory since September 15, 2003. His performance in the Organization during the period has been highly satisfactory.*

*He is permanent employee of this Laboratory.*

*xxx*

*xxx*

*xxx*

*Mr. Dileep G has eight (08) years experience in field of lie-detection in lie-detection technique. During this period he has conducted lie-detection examination of more than 600 subjects in various cases referred by CBI, Delhi Police and other law enforcement agencies. He gained knowledge and skills of the theoretical and practical aspects of lie-detection technique in crime investigation. He acquired good expertise in the polygraph technique and is capable of conducting polygraph examination independently. He has conducted polygraph examination in a large number of cases at outstation too...."*

9. From the above it has been clearly certified by the Head of the Forensic Psychology Division, CFSL/CBI, New Delhi that the applicant has worked for 8 years in field of lie-detection in lie-detection technique and during this period he has conducted lie-detection examination of more than 600 subjects in various cases referred by CBI, Delhi Police and other law enforcement agencies. He also gained knowledge and skills of the theoretical and practical aspects of lie-detection technique in crime investigation. He acquired good expertise in the polygraph technique and is capable of conducting polygraph examination independently. He has conducted polygraph examination in a large number of cases even on outstation locations.

10. It appears that the applicant had also filed one RA No.329/2012 in OA No.339/2012 (Anjali Yadav V/s. UOI & Ors) against the Tribunal's order dated 18.04.2012 passed in the afore OA, which came to be dismissed vide order dated 20.02.2014 finding the same not maintainable. For the sake of better clarity, relevant portion of the order in RA reads thus:-

*“23. In view of the decision of the Honble Supreme Court in Gopabandhu Biswal(supra), the review petitioner, a third party, cannot be permitted to file a review petition to get the order dated 18.4.2012 (ibid) reviewed and obtain an order that the applicant-1st respondent is not entitled to the benefits of the direction contained in the order dated 18.4.2012 (ibid) which has been upheld by the Honble High Court.*

24. *It would not be out of place to mention here that the 2nd respondent-UPSC, vide communication dated 7.3.2012, informed the review petitioner that his application was rejected as he did not meet the requirement of relevant experience of three years. Aggrieved thereby, the review petitioner filed OA No.1010 of 2012. The Tribunal, vide order dated 29.5.2012, dismissed the said O.A. W.P. (C ) No. 4619 of 2012 filed by the review petitioner against the order dated 29.5.2012 (ibid), the Honble High Court of Delhi, vide judgment dated 30.01.2013, quashed the same and restored OA No.1010 of 2012 for fresh adjudication before the Tribunal. Thus, it is clear that the review petitioner availed of the remedy available to him under law for redressal of his grievances, if any, in the matter of rejection of his candidature by the 2nd respondent-UPSC.*

25. *In the light of the above discussions, we hold that the Review Application is not maintainable either on facts or in law, besides being devoid of merit. Accordingly, the Review Application is dismissed. No costs.”*

11. Respondent No.3/Intervener has also filed a counter affidavit stating that the applicant stood to be guilty of fraud and perjury as he has sought to mislead the Tribunal by making false and malicious allegations against the answering respondent. In her counter affidavit, she has also stated that the applicant has cleverly concealed from the Tribunal about communication of orders passed on his application dated 09.12.2013 and even during pendency of RA No.329/2012 (page 148 of the paper book). However, as we are concerned only with the eligibility of the applicant on the cut off date as defined by the Hon'ble High Court, we find that there is nothing on record assailing the Certificate issued to the applicant qua his work experience being false.

12. In view of the afore discussions, we arrive at the conclusion that there have been spate of litigation relating to three posts of SSO Grade-II in question which were advertised vide Advertisement dated 27<sup>th</sup> August – 2<sup>nd</sup> September, 2011 published in the Employment News. We have already taken note of such earlier cases. It appears that the applicant had challenged the selection of Anjali Yadav and Deepti Atul Puranik on account of having obtained the same by committing fraud and deceit. Most of the consideration, as stated earlier, revolves around the fraud and deceit on part of Anjali Yadav and Deepti Atul Puranik. However, from perusal of the records, we find that there is a Certificate which has been validly issued to the applicant by Dr. Asha Srivastava, Head of Forensic Psychology Division, CFSL/CBI, New Delhi where the applicant had been working and where the post under consideration is to be located. Dr. Asha Srivastava in her Certificate not only testifies the work experience of the applicant for a period of eight years against that of three years required but also talks in clear terms about his ability. Apart from this, the affidavit of the respondents does not disclose anything either to challenge the veracity of the Certificate issued by the person, who was deployed as Head of the Department or to raise doubts on its contents. As stated earlier, we are only confined to the issue as defined by

the Hon'ble High Court of Delhi in its remand order dated 30.01.2013.

13. On the basis of the above discussion, we find that the Certificate in question issued to the applicant by Dr. Asha Srivastava, Head of Forensic Psychology Division, CFSL/CBI, New Delhi has not been challenged or controverted to any effect. Therefore, the instant Original Application succeeds and the same is allowed with a direction to the respondents to convene a review DPC to consider the claim of the applicant for the post of Senior Scientific Officer Grade-II within a period of three months from the date of receipt of certified copy of this order and grant his all consequential benefits flowing therefrom.

**(Dr. B.K. Sinha)**  
Member (A)

**(A.K. Bhardwaj)**  
Member (J)

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