

**Central Administrative Tribunal
Principal Bench
New Delhi**

**OA No.1358/2018
MA No.1964/2018**

This the 10th day of July, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

Anuj Pratap Singh S/o Siya Ram,
R/o 1368/1, New Dhyan Chand Colony,
Prem Ganj, Sipri Bazar, Jhansi,
U.P.-284003. ... Applicant

(By Mr. M. K. Bhardwaj, Advocate)

Versus

1. Union Public Service Commission
through its Secretary,
Dholpur House, Shahjahan Road,
New Delhi.
2. Department of Personnel & Training,
Ministry of Personnel, Public Grievances & Pensions
through its Secretary,
North Block, New Delhi. ... Respondents

(By Mr. R. V. Sinha, Mr. Naresh Kaushik, Mr. Amit Sinha, Mr. Vaibhav Pratap Singh and Mr. Daik Singh, Advocates)

O R D E R

Justice L. Narasimha Reddy, Chairman :

The applicant appeared in the Civil Services Examination (CSE), 2016, conducted by the Union Public Service Commission, the first respondent herein. He qualified in the

preliminary examination, and thereafter he appeared in the main examination. In the applications submitted at the first stage as well as the second stage, he mentioned his date of birth as 31.03.1991. However, in the matriculation certificate his date of birth is recorded as 30.03.1991. At the stage of interaction, on emerging successful in the main examination, the applicant is said to have noticed on 02.05.2017 that his date of birth was not correctly mentioned in the application form. It is stated that on the advise given by the first respondent, an affidavit was filed narrating the circumstances under which the incorrect date of birth was mentioned, and that since the applicant did not come up to the selection, further proceedings in this regard did not take place.

2. The applicant has also appeared in the CSE for the year 2017. For this purpose, he submitted application on 12.03.2017 for the preliminary examination, and on 31.08.2017 for the main examination. In both the forms he entered his date of birth as 31.03.1991.

3. On 21.03.2018, the Under Secretary of the first respondent issued a show cause notice to the applicant requiring him to explain as to why action should not be taken

under rule 14(5) of the rules for the CSE, 2017. It is mentioned that the applicant downloaded e-admit card for CSE, preliminary and main examinations, and e-summon letter for personality test of CSE main examination, 2017, by entering wrong date of birth and kept silent until pointed out by the Commission vide e-mail dated 23.02.2018. The applicant submitted his explanation on 22.03.2018 (Annexure A-13). Not satisfied with the explanation offered by the applicant, the first respondent passed an order dated 28.03.2018 cancelling his candidature for CSE, 2017, and directing him not to appear in the personality test. This OA is filed challenging the said order.

4. The applicant contends that the entering of his date of birth as 31.03.1991 is on account of an inadvertent mistake, and on being satisfied that there is nothing serious or illegal about it, the first respondent condoned the same for the CSE, 2016, on submission of an affidavit. Placing reliance upon certain judgments of the Hon'ble Supreme Court and the Delhi High Court, the applicant contends that the mistake deserves to be condoned and the valuable right that has accrued to him on the basis of the performance in the preliminary examination

and the main examination cannot be denied to him. It is also stated that there is no legal basis for the impugned order.

5. The first respondent filed a detailed counter affidavit annexing several documents. It is mentioned that in the instructions to the candidates, it was clearly stipulated that making of a wrong entry in the application would not only lead to denial of candidature, but also punishment. The respondent contends that assuming that the mentioning of date of birth in the context of CSE, 2016 as 31.03.1991, was inadvertent, it is just not understandable as to how the same date was entered in respect of the CSE, 2017, that too, after an affidavit acknowledging the mistake was filed for CSE, 2016.

6. Shri M. K. Bhardwaj, learned counsel for the applicant advanced extensive arguments contending that the mistake in respect of the date of birth of the applicant was clearly inadvertent, and that no benefit can be said to have accrued to him on account of the same. The learned counsel submits that the UPSC itself condoned the mistake for CSE, 2016, and a totally different and stringent view was taken as regards the CSE, 2017. He placed reliance upon the judgments of the Hon'ble Supreme Court in *Council of Scientific and*

Industrial Research and another v K.G.S. Bhatt and another
[AIR 1989 SC 1972], and *S.I. Rooplal & another v Lt. Governor through Chief Secretary, Delhi & others* [JT 1999 (9) SC 598].

7. Shri R. V. Sinha, learned counsel for the first respondent, pleaded that each and every entry made in the application for the CSE is required to be accurate and consistent with the record, and for the reasons best known to him, the applicant entered his date of birth as 31.03.1991, which is contrary to his own testimonials and certificates. It is also stated that whatever may have been the circumstances under which the wrong date of birth was entered for the CSE 2016, there cannot be any justification for repeating the same, for CSE 2017 also. By referring to the relevant clauses, the learned counsel submits that the wrong on the part of the applicant is so serious that it would entail disqualification for subsequent examinations also.

8. The date of birth of the applicant, as entered in the matriculation certificate, is 30.03.1991. However, in the application submitted for the preliminary examination of CSE 2016, it was mentioned as 31.03.1991. Assuming that such wrong entry was inadvertent, there was a clear occasion for the

applicant to rectify the mistake when he submitted the application for the main examination, after he qualified in the preliminary examination. For reasons best known to him, he repeated the same date, i.e., 31.03.1991, in that application form also. At the stage of interview in May, 2017, the inconsistency between the entry in the application form and the entry in the matriculation certificate was pointed out. Stating to be on the advise and direction of the UPSC, the applicant filed an affidavit. Further developments in this regard could not be noticed since the applicant did not qualify in that selection process.

9. The application for the preliminary examination of CSE 2017 was filed on 12.03.2017. Here again, the same mistake or exercise was repeated, and the date of birth was mentioned as 31.03.1991. There may be a possibility for justifying this on the ground that the mistake as to the date of birth was noticed only in May, 2017 and since the application for preliminary examination of CSE 2017 was filed on 12.03.2017, there was no occasion for rectifying the same. On being declared as qualified for the preliminary examination, he filed an application for the main examination on 31.08.2017. By this time, not only he

became aware of the mistake, assuming it to be so, but also he filed an affidavit with reference to the CSE, 2016. Despite that, he repeated the same performance, i.e., he entered his date of birth as 31.03.1991. This only shows that he was persistent in making wrong entry, in spite of the fact that he was put on notice and was also required to file affidavit. In the explanation submitted to the show cause notice, the applicant stated that he made such entries being “subconscious” about the accuracy thereof. It is rather surprising to hear such a plea from a candidate who is intending to make it to the All India Services.

10. It is strongly pleaded that the mistake was inadvertent and it should not have led to cancellation of the candidature, particularly when the applicant did not derive any benefit of such a wrong entry. It is no doubt true that in the judgments relied upon by the learned counsel for the applicant, relief was granted on recording of a finding that the mistake was purely inadvertent and the petitioners therein did not derive any benefit of the mistake. The case on hand is totally different. Not once, but four times, the applicant successively mentioned the wrong date of birth. When a specific question was put as to what basis can be there to enter the wrong date

birth as late as on 31.08.2017, the explanation offered is that the application was required to be made online, and the system does not permit of making entry of any date other than the one mentioned in the application form for the preliminary examination. Even if that is true, the applicant was expected to address communication to the UPSC as to how the mistake had occurred, that too for the fourth consecutive time. From the arguments advanced in this behalf, it can be discerned that the applicant was awaiting for a call to appear in the interaction, and then to file an affidavit, if necessary, as was done in respect of the CSE 2016. This only shows the level to which the applicant has reduced the accuracy and standard of the CSE examination conducted by the UPSC.

11. The manner in which repetition of the mistake occurred, would indicate that the applicant was absolutely indifferent in this regard, that too when the instructions to the candidates clearly mentioned that any inaccurate entry would lead to disqualification as well as punishment. Reference in this regard, can be made to Note-1 and Note-2 appended to the application form, which read as under:

“Note 1: - Candidate should note that only the date of birth as recorded in the Matriculation/

Secondary Examination certificate or an equivalent certificate on the date of submission of application will be accepted by the Commission, and no subsequent request for its change will be considered or granted.

Note 2: - Candidates should also note that once a date of birth has been claimed by them and entered in the records of the Commission for the purpose of admission to an Examination, no change will be allowed subsequently or at any other Examination of the Commission on any grounds whatsoever."

It is difficult to imagine that the applicant was (a) not aware of his own date of birth, and (b) did not understand the implications of Notes 1 and 2. Indulgence of courts can be only when the mistake is inadvertent, but not when it is deliberate or wanton. Even otherwise, what is involved is not a Group 'D' or Class IV post; the selection is to the All India Services, and the UPSC cannot be expected to be excessively indulgent.

12. We do not find any basis to interfere with the impugned order. The OA is accordingly dismissed. Though Note 2 extracted above is to the effect that the mistake noticed in respect of one examination would count in the subsequent examinations also, fortunately for the applicant, the first respondent did not take such an extreme step in the impugned order. We make it clear that the appearance of the applicant in

the subsequent examinations shall not be affected on account of the mistakes committed by him in respect of the previous examinations, provided, there are no mistakes there. There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/as/