

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.1314 of 2015

This the 22st day of February 2019

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

Onkar Nath Dubey
S/o Sh. Gulab Chandra Dubey
R/o C-141, Street No.6, West Karawal Nagar
Delhi-94
(age 26 years)

....Applicant

(Applicant in person)

VERSUS

Staff Selection Commission,
Through its Chairman
Block No.12, CGO Complex
Lodhi Road, New Delhi-3.

.....Respondents

(By Advocate : Shri Gyanendra Singh)

O R D E R (Oral)

Ms. Nita Chowdhury, Member (A):

Heard.

2. By filing this OA, the applicant is seeking the following reliefs:-

“(a) Quash and set aside the impugned order or result placed Annexure A/1 qua the applicant and

(b) Direct the respondent to consider the applicants further in respect of CGLE 2014 and equate the mark by setting up a committee because of lengthy and tough paper and

(c) pass a order to cancel the examination and hold a fresh examination in one shift and one paper set is set up

(d) quash the result which was announced by respondent

(e) award costs of the proceedings and

(f) pass any other order/Direction which this Hon'ble Tribunal fit, and proper in favour of the applicant and against the respondents in the facts and circumstances of the cases."

3. The brief facts of the case as stated in the OA are that in the month of January 2014, Staff Selection Commission (SSC) issued a notification of Combined Graduation Level Examination-2014 (CGLE-2014) for recruitment of different posts of the Govt. for which graduation from a recognized university is the minimum qualification. The applicant applied in response to the same and was issued roll number.

3.1 Tier-I examination was conducted on 19.10.2014 and 26.10.2014 in both shift. The SSCV has set up various set (total 8 sets) which questions are different not same and total 16 set which question was only interchange in serial number of question paper for four shifts. The paper set for first shift of 19.10.2014 was very tough and lengthy in compare to others.

3.2 The applicant has made representation dated 19.3.2015 which was sent to the respondent vide Speed Post on 20.3.2015 (Annexure A/2), however, the same has not been responded to by the authorities. Thereafter he sought certain information under RTI Act but the same was also not responded to by the respondent. Therefore, when the Tier-II examination has been scheduled for 11.4.2015 and

12.4.2015, the applicant has left with no option except to approach this Tribunal for seeking the reliefs as quoted above.

4. Pursuant to notice issued to the respondents, they have filed their reply in which they have stated that in view of large number of candidates and increasing instances of malpractices in examinations, the respondent – SSC uses different sets of question papers in its examination. For this purpose, the respondent engaged a panel of Experts under relevant subject fields. They are advised to select the question items in such a way so as to ensure uniformity of standards across all the sets of the question papers. The Experts prepare the question papers as per instructions/guidelines of the Commission to ensure that the standard and difficulty level remain the same across all sets of question papers to the maximum extent possible. The CGL 2014, the aforesaid procedure was followed. The subject Experts were advised to set the questions on the basis of standard and syllabus notified in the notice of the examination and to ensure uniformity of difficulty level of question papers across all the sets.

4.1 They further stated that RTI application submitted by the applicant was replied by concerned CPIO of the respondent on 6.4.2015 and as such the contention that his

RTI applicant had not been replied to by the respondents is not correct.

4.2 They also stated that after the examination was over, the respondent received some representations from candidates thereby alleging that the question paper of 19.10.2014 of the morning shift (Tier-I) of CGLE-2014 was more difficult than that of other shifts of the second exam. To examine the issue, the respondent constituted a Committee of the subject Experts who prepared the question papers of the said exam. After examining the recommendations and findings of the Committee, the respondent came to a conclusion that the question paper of all the shifts of CGLE-2014 are of comparable standard and there is no significant variation in the difficulty level. The respondent receives such representations from unsuccessful candidates after every examination. It may be appreciated that 100% uniformity in difficulty level is not technically possible. The Commission, however, ensure uniformity to the maximum extent possible.

4.3 They further stated that the Commission scanned all the ORM answer sheets and processed the result accordingly of these candidates. The Commission does not declare the result date-wise/shift-wise as the declaration of the said examination as a whole based solely on merit.

4.4 Lastly, they contended that the instant OA deserves to be dismissed by this Tribunal.

5. The applicant has also filed rejoinder reiterating the contents of the OA and denying the averments of the counter reply filed by respondent.

6. The main contention of the applicant that the question paper provided to him in morning shift on 19.10.2014 was very tough and lengthy in comparison to the question papers provided to other candidates who appeared in other shifts and as such the respondent had arbitrarily meted the discriminatory treatment to the applicant vis-a-vis his counterparts. The respondents' counsel specifically submitted that this issue was also raised by some of the candidates before the SSC and the SSC itself constituted a Committee of the subject Experts who prepared the question papers of the said exam. After examining the recommendations and findings of the Committee, the SSC came to a conclusion that the question paper of all the shifts of CGLE-2014 are of comparable standard and there is no significant variation in the difficulty level. He further submitted that SSC receives such representations from unsuccessful candidates after every examination he further submitted that 100% uniformity in difficulty level is not technically possible, but SSC, however, ensure uniformity to the maximum extent possible in the matter of setting up of question papers.

7. Counsel further submitted that applicant who participated in the examination and after having declared as

unsuccessful, he cannot be allowed to raise such a plea, which SSC had already examined after constituting a Committee of the subject Experts who prepared the question papers of the said exam.

8. After having regard to the rival contentions of the parties and perusing the material place on record, this Court, first of all, observes that this Court has no authority to go into the question of whether the set of question paper provided to particular shift candidates was very tough or lengthy in comparison to other shifts set of question papers or not, as this issue is very much within the domain of the Experts in that particular field and the respondent has itself constituted a Committee of the subject Experts, who prepared the question papers of the said exam, and after examining the recommendations and findings of the Committee, the respondent came to a conclusion that the question paper of all the shifts of CGLE-2014 were of comparable standard and there was no significant variation in the difficulty level, nothing has been left for this court to decide on this core issue. It is further relevant to mention that in the shift in which the applicant appeared for the said examination, total 3,97,982 candidates were appeared as per the information provided by the respondent to the applicant to his RTI Application.

9. Further it is settled law that a person who consciously takes part in the process of selection cannot, thereafter, turn around and question the method of selection and its outcome, as held by the Supreme Court in catena of judgments, especially in the case of **Chandigarh Admn. v. Jasmine Kaur**, (2014) 10 SCC 521, Apex Court held that a candidate who takes a calculated risk or chance by subjecting himself or herself to the selection process cannot turn around and complain that the process of selection was unfair after knowing of his or her non selection; and also in **Pradeep Kumar Rai v. Dinesh Kumar Pandey**, (2015) 11 SCC 493, the Apex Court held that:

“Moreover, we would concur with the Division Bench on one more point that the appellants had participated in the process of interview and not challenged it till the results were declared. There was a gap of almost four months between the interview and declaration of result. However, the appellants did not challenge it at that time. Thus, it appears that only when the appellants found themselves to be unsuccessful, they challenged the interview. This cannot be allowed. The candidates cannot approbate and reprobate at the same time. Either the candidates should not have participated in the interview and challenged the procedure or they should have challenged immediately after the interviews were conducted.”

The aforesaid principle has been reiterated in the case of **Madras Institute of Development Studies v. K. Sivasubramaniyan**, (2016) 1 SCC 454.

10. In view of the above facts and circumstances of the case, we do not intend to interfere with the decision of the

respondents and as such the present OA is dismissed being devoid of merit. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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