

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

MA 1713/2019
OA No. 2613/2017

Reserved on: 30.07.2019
Pronounced on: 08.08.2019

Hon'ble Mr. S.N.Terdal, Member (J)
Hon'ble Mr. A.K.Bishnoi, Member (A)

1. Dushyant Kaushik,
S/o Sh. Indermal Sharma,
R/o 16-A, Giriraj Maharaj Colony,
Gopal Bagh, Kosi Kalan, w
Mathura, Uttar Pradesh.
Aged about 20 years
2. Prashant Singh
S/o Sh. Yogendra Pr. Singh,
R/o SA 2/235 A, Pandeypur,
Varanasi
Aged about 23 years.
3. Ajit Singh Brar
S/o Sh. Sarabhjit Singh,
R/o B-330, Ground Floor,
Green Field Colony, Faridabad.
Aged about 25 years.
4. Sachin Kumar
S/o Sh. Jagdish Singh,
R/o H. No.1245, VPO Dichaon Kalan,
Najafgarh, New Delhi-110043.
Aged about 22 years
5. Naren
S/o Sh. Rameshwar Singh
R/o H-Block, House No. 29, Nanakpura,
Moti Bagh-2, New Delhi.
Aged about 24 years
6. Kuldeep Dahiya
S/o Sh. Krishan Chandar
R/o H.No. 1040, Near Papu Doctor,
VPO Nahri, Sonipat, Haryana-131103
Aged about 22 years
7. Mukesh Kumar
S/o Sh. Mahadev Mandal
R/o Village Indrawa, PO Arariya,

PS Kanhauli, Distt. Sitamarhi,
Bihar.

Aged about 23 years
(Group 'C')
(Candidates towards CGLE-2017)

... Applicants

(By Advocate: Mr. Ajesh Luthra)

VERSUS

1. Staff Selection Commission
Through its Chairman (Head Quarter),
Block No. 12, CGO Complex,
Lodi Road, New Delhi-110504

2. Staff Selection Commission (Northern Region)
Through its Regional Director,
Block No. 12, CGO Complex,
Lodi Road, New Delhi-110504.

... Respondents

(By Advocate: Mr. Piyush Gaur)

ORDER

Hon'ble Mr. S.N. Terdal, Member (J):

We have heard Mr. Ajesh Luthra, counsel for applicants and Mr. Piyush Gaur, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicants have prayed for the following reliefs:

- “(a) Hold and declare that the respondents have wrongly denied the opportunity of participation to the applicants towards CGLE-2017 and
- (b) Direct the respondents to further consider the applicants for selection in pursuance to their merit position in the Combined Graduate Level Examination 2017 and
- (c) Recommend their case for appointment in accordance with their merit position and post preferences

- (d) Accord all consequential benefits
- (e) Pass any order/relief/direction(s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice in favour of the applicants."

3. The relevant facts of the case are that applicants applied online for the Combined Graduate Level Examination, 2017 (CGLE-2017). According to applicants, they have completed all the application procedure and have paid the requisite application fee through net banking mode. But, however, they were not permitted to appear in the said examination.

4. The respondents have filed reply affidavits from time to time. Their main contention is that the application fee which is alleged to have been paid by the applicants is not received by the respondent- Staff Selection Commission (SSC), as such the application of the applicants is incomplete and they cannot be allowed to appear in the examination. The counsel for the respondents further brought to our notice the relevant instructions in the advertisement, wherein it is stated that application fee could be paid online upto the last date of submission of the application i.e. 16.06.2017 (5.00 PM) and in case the payment is made through SBI bank challan the payment could be made upto 19.06.2017. The relevant portion of the instructions is extracted below:

- "x) The facility of on-line application (including payment of fees through debit card) will be available from 16.05.2017 to 16.06.2017 (5.00PM). However, candidates who wish to make the payment through challan of SBI, may make the payment to designated branches of SBI within the working hours of bank upto 19.06.2017 provided the challan has been generated by them before 5.00PM of 16.06.2017. Candidates should retain the Registration ID assigned to them online and details of fee for further correspondence with the Commission. They should not submit print out of their application to the Commission.

- xi) Fee paid by modes other than SBI challan or online payment through SBI Challan/Net Banking (SBI)/Credit and Debit Card from any Bank, as stated above, will not be accepted and the applications of such candidates will be rejected forthright and the payment made shall stand forfeited."

In their additional affidavit dated 28.11.2018, they have further stated that the application fee was not received by the Commission and as such the status of their application is shown as incomplete and in the details against the columns "mode of fee payment", "amount", "Transaction-ID" and "Transaction date " in their application form nothing was stated and they were all blanks and as per the procedure if the application fee is received by the Commission, the applicant would get an 'e-receipt' and the Commission also will receive a copy of the e-receipt wherein status of payment i.e. whether it was a 'success' or a 'failure' is reflected. A photocopy of the e-receipt is produced as annexure R-1. In the case of applicants, such a receipt is not generated meaning thereby that the application fee was not received by the SSC. The detailed averments made in the said affidavit are extracted below:

"(xiii)When all the mandatory columns have been filled, Candidate could submit his online application, even if he had not paid the fee because examination fee is exempted for few categories and fee can also be paid through offline Challan. However, this application is not yet complete for want of fee payment for the non-exempted candidates. This status is reflected at the time of the printout of application form.

(xiv) On submission of the application form, non-exempted candidates are prompted to make fee payment. They may make online fee payment using SBI net banking/Credit Card/Debit Card of any bank or generate challan for making offline fee payment in cash at any branch of SBI. However, candidates may also choose to make fee payment subsequently but before the last date. Payment of online was accepted till last date for receipt of online applications (i.e. 19-06-2017, 5PM) and offline fee through challan was accepted in the banking hours of SBI upto 21.06.2017 provided challan

has been generated before last date and time for submission of applications. It is also relevant to submit that, if the applicant failed to make online payment on last date i.e. 19.06.2017 before 5PM, due to any reason, he could have generated offline challan on the last date (i.e. 19-06-2017 before 5PM) and pay it in the bank up to 21-06-2017. The application of the candidate remains incomplete till fee is not received by the Commission and this status is clearly reflected at the top of the printout of application form. Also relevant entries about the fee payment (i.e. Mode of Fee Payment, Amount, Transaction-ID, Transaction Date) are shown blank in the application printout. Further payment status can also be checked at the "payment Status" link provided in the online system to the candidate by logging in using their Registration Number and password.

- xv) If the candidate chooses to make online fee payment, he is directed to SBI net banking facility or payment through Credit/Debit Card facility appropriately. On the completion of transaction by the candidate, an 'E-Receipt' for fee payment is generated by the online system wherein status of payment i.e. whether it was a 'Success' or a 'Failure' is reflected. Copy of the E-Receipt generated for the applicant i.e. Shri Dushyant Kaushik (Registration Number: 64005884795) is attached as Annexure-R/1. Since the payment status of the petitioner was a 'failure', accordingly there was no entry in the columns related to payment in the application form (i.e. Mode of Fee Payment, Amount, Transaction-ID and Transaction Date) and therefore his application form was shown as incomplete. A copy of the candidate's application form is attached as Annexure-R/2.
- xvi) If the candidate is exempted from making fee payment, his application form is complete after step at S.No.-(xiii) above and is provisionally accepted.
- xvii) In the application form, the remarks given in column fee is related to category mentioned i.e., if the form is filled by exempted category, i.e. SC / ST / Female / Persons with Disabilities etc. then the remarks against fee is reflected as exempted. For rest of the categories, it is reflected as fee paid. A Specimen copy of Online Application printout for fee exempted categories & non-exempted category is attached as Annexure R/3)."

5. The counsel for respondents further submitted that the selection procedure of recruitment should be strictly complied with and there should not be any relaxation in the same. In support of this contention, the counsel for respondents relied upon the law laid down by the Hon'ble Supreme Court in the case of **Bedanga Talukdar Vs. Saifudaullah Khan and Others** (2011) 12 SCC 85) and **Amitesh Mishra Vs. UPSC and Anr.** (Special Leave to Appeal (C) No (s) 4299/2016)) and in support of his another contention that the onus of ensuring that the application fee is credited to the account of the Commission is on the candidate, he relied upon the judgment of the Hon'ble High Court of Delhi in the case of **Union Public Service Commission Vs. Amitesh Mishra and Ors** (W.P(C) 4091/2014). The relevant para 18 of the same is extracted below:-

"18. In our view, the Tribunal has erred in fixing the responsibility on the petitioner to ensure that the payment was cleared through the bank of respondent no.1 and the bank appointed by the petitioner for the purpose of deposit of Rs.25/-. The onus, in our view, was only on the candidate, who was to ensure that Rs.25/- stood credited into the account of the UPSC. The candidate had almost two weeks from 19.4.2012 to 3.5.2012 to ascertain from his bank that the transaction had actually been successful or not."

6. Producing the bank statements of the applicants, the counsel for the applicants equally vehemently and strenuously contended that the applicants had made online payment and the application fee was debited from their accounts but however, subsequently the said amount was credited back to their account; and the amount of application fee is only Rs.100/- which he is ready to deposit even as on today, and, therefore, taking lenient view the applicants be permitted to appear in the

examination. He further submitted that the amount probably was not credited in the account of the Commission because of internet problems and on this basis he submits that applicants be allowed to appear in the examination. In support of his contention, the counsel for the applicants relied upon the judgment of Hon'ble Madras High Court in the case of **S. Muthu Malathi Vs. The Member Secretary, Medical Services Recruitment Board, Chennai.** (W.P (MD) No. 10321/2015). But, however, in view of the clear instruction brought to our notice by the counsel for respondents and in view of the above referred averments made in the counter and in view of the law laid down by the Hon'ble Supreme Court and Hon'ble Delhi High Court referred to by the counsel for respondents, we are of the view that the application of the applicant are incomplete and they are not entitled to appear in the examination and hence they are not entitled for any relief in this OA.

7. Accordingly, the OA is dismissed. The interim order dated 3.08.2017 passed at the time of admission, directing the respondents to permit the applicants to appear in the examination provisionally will not give any equitable rights to the applicants. MAs pending, if any, shall stand disposed of. No order as to costs.

(A.K.Bishnoi)
Member (A)

(S.N.Terdal)
Member (J)

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