

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/00121/2015 & MA/021/00402/2015

HYDERABAD, this the 9th day of March, 2021



Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member

Dhanraj More
S/o Vamanro More,
Age : 39 yrs, Occ : Ex-Serviceman,
R/o H.No.14-4-238, Shah Inayat Gunj,
Hyderabad – 500 012.

...Applicant

(By Advocate : Mr.Uday Vir Singh Laur)

Vs.

1. Union of India rep. by its Principal Secretary,
Ministry of Personnel, Public Grievances and Pensions,
North Block, New Delhi-110001.
2. The Chairman, Staff Selection Commission,
Block 12, CGO Complex, Lodhi Road,
New Delhi-110003.
3. The Regional Director,
Staff Selection Commission (Southern Region),
2nd Floor, EVK Sampath Building,
College Road, Chennai-600006.

....Respondents

(By Advocate : Mrs. K. Rajitha, Sr. CGSC)

ORAL ORDER
(As per Hon'ble Mr. B.V. Sudhakar, Administrative Member)

Through Video Conferencing:

2. The applicant filed OA being aggrieved by his non-calling for the interview for the interview category posts pursuant to the notification dt. 19.01.2013.



3. Brief facts of the case are that the applicant, who is an Ex-serviceman responded to the notification dated 19.1.2013 calling for applications to the posts of Group B/Group C posts, by applying for the posts of Inspector Income Tax, S.I. of CBI, Assistant Enforcement Officer in Directorate of Enforcement, Divisional Accountant under CAG, etc. under reserved category for ex-service man. Applicant appeared in the Tier I & II of the prescribed Combined Graduate Level (CGL) written exam conducted for the year 2013 and scored 338.5 marks out of 600 marks, but was not called for interview. Aggrieved, the OA is followed.

4. The contentions of the applicant are that the respondents failed to implement the Ex. Servicemen (Re-employment in Central Services and Posts) Rules of 1979 and amendments made to the said rules in 1985. Applicant has cited two specific instances, where the said Rules have been violated. Applicant sought information under RTI Act, but irrelevant information was submitted. The selection process was unfair.

5. Respondents *per contra* state that the notification issued on 19.1.2013 contains two category of posts namely interview and non-interview posts. For the interview posts, the cut off mark was 339.50 in the written exam to call candidates for interview. Applicant secured 338.50

marks and hence, was not called for interview for the posts of interview category. However, for the non-interview category, the cut off mark was 226 and therefore, the applicant was called for document verification on 7.1.2015. Allowing the applicant to appear for the interview without getting the requisite marks would be doing injustice to other similarly placed candidates. Even in respect of candidates who finally qualify, the selection orders are issued only if the yardsticks stipulated in the Ex. Servicemen Rules cited by the applicant are followed. The selection has not come to the final stage and hence, the names of the 2 candidates named by the applicant will be accordingly dealt. Any candidate who appears in the exam by fraudulently claiming that he is an ex-servicemen, he is liable to be permanently debarred from appearing in the exams conducted by the Commission.



6. Heard both the counsel and perused the pleadings on record.
7. I. The dispute is about not calling the applicant for interview for the interview category of posts pursuant to the notification dt.19.01.2013. From the facts on record, the applicant got 338.50 marks against the cut off mark of 339.50 and therefore, he was not called to appear in the interview for the interview category of posts, but was called for document verification for non-interview category of posts on 7.1.2015 where the cut off prescribed was 226. The applicant pleads that as per Ex-Servicemen Rules 1979 and subsequent Amendments in 1985, those ex-servicemen who have secured a civilian job are not eligible to apply for civilian job again under ex-servicemen reserved category. However, they are eligible for age relaxation to appear in the exam/ selection. Many ex-servicemen, for the



sake of exposure to the exam, write the exam, but do not appear in the interview. Some who got civilian jobs reappear and are selected on more than one occasion. Applicant cited the cases of Sri Anup Kumar Munsi, working as Auditor in Rail Nilayam, Secunderabad and Sri Poras Singh, working as Probationer Officer in a Bank, who are not eligible under ex-servicemen category were selected. Applicant claims that there could be many others who would have got selected in this manner. The respondents have not taken proper care in scrutinizing the applications to allow only those eligible to compete in the ex-servicemen category. By not doing so, ineligible get selected and eligible are rejected under the said category. The applicant got disqualified by one mark and if the respondents were to screen out the ineligible candidates, he would have been called for the interview for the interview category posts.

II. In respect of the contentions of the applicant, we need to observe that the results for the interview and non interview posts were declared on 31.10.2014 whereas the applicant represented on 3.11.2014, after failing to secure the cut-off marks required. Under law, those who participate in an exam and after getting disqualified, cannot turn around to question the exam process or the results. We are supported by the Hon'ble Apex Court/High Court judgment in this regard as under:

- a. Hon'ble Supreme Court in ***Air Cmde Naveen Jain vs Union of India*** on 3 October, 2019, Civil Appeal No.3019 of 2017, as under, in stating the above:

"17. In Ramesh Chandra Shah v. Anil Joshi [Ramesh Chandra Shah v. Anil Joshi, (2013) 11 SCC 309 : (2011) 3 SCC (L&S) 129], candidates who were competing for the post of Physiotherapist in the State of Uttarakhand participated in a written examination held in pursuance of an

advertisement. This Court held that if they had cleared the test, the respondents would not have raised any objection to the selection process or to the methodology adopted. Having taken a chance of selection, it was held that the respondents were disentitled to seek relief under [Article 226](#) and would be deemed to have waived their right to challenge the advertisement or the procedure of selection. This Court held that: (SCC p.318, para 18) 14 (1995) 3 SCC 486 15 (2017) 4 SCC 357



18. 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.”

- b. Recently, Hon’ble Punjab and Haryana High Court has reiterated the above legal principle in CWP No.13069 of 2018 on 24.07.2019 in Ramesh Kumar Vs. Union of India and others as under:

The law with regard to estoppel challenging the advertisement of selection process having participated is no longer res integra. The grievance of the petitioner of not adhering to guidelines at Annexure P-8 is neither here nor there as guidelines at Annexure R-4 deals with National HIV Counselling and Testing Services (HCTC). Once petitioner has not secured the marks and rightly so has been kept in waiting list at serial no.2 whereas other selected candidate secured higher marks vis-a-vis petitioner. The selection process cannot be challenged until and unless there is malafide or glaring fallacy. The Court cannot assume the role of an expert and form the different opinion in determining the eligibility, in other words, there is no barometer to assess the certain illegality or irregularities as attempted. In the absence of same, I am of the view that grievance expressed is wholly far-fetched. No ground for interference is made out. Dismissed.

Therefore, as per the above legal principle, the contentions made by the applicant do not hold good.

III. Further, respondents have made it clear that only those who score marks equal or higher than the cut off mark will be called to the interview and their final selection is subject to satisfying the Ex-servicemen Rules with the relevant amendments. The respondents state that the said stage has not reached in respect of CGL 2013 Exam. Moreover, if the plea of the applicant were to be considered, then injustice would be done to



many other candidates who would have not been called for interview for reasons stated by the applicant and are not before the Tribunal. The two specific cases referred to by the applicant cited supra, would be dealt by the respondents in accordance with the relevant rules, as affirmed by the respondents in the reply statement. The penal provision for fraudulently claiming to belong to ex-servicemen category is debarring such candidates from appearing in the exam. We expect the respondents to take stringent action in the matter as per Rules so that the sanctity of the selection process is maintained and it is not polluted by un-scrupulous elements adopting dubious means. If required, by having a relook at the application scrutiny process using appropriate IT software, so that applications are submitted online and only those applications which fulfill the relevant rules and regulations will be accepted. Human intervention has to be reduced to the barest minimum. Effective conduct of the exam/ selection and its validation processes are of vital importance, since employment is a sensitive matter impinging the future of the youth of the country. The fittest among the fit have to be selected. Such an evaluation process should be the *sine qua non* of any selection process. Hence, using modern IT tools is imperative to make the selection as perfect as possible. It is open to the respondents to form a high level committee with educational experts and others associated with the selection process for evaluating the pros and cons of the existing processes and based on its recommendations, usher in changes in tune with the societal expectations.

IV. The applicant stated that the respondents were not fair in conducting the selection process. This appears to be an unfair submission because the respondents did call the applicant for documents verification for the non interview posts as adduced above, since he scored more than the cut off mark of 226 for these category of posts.



V. Therefore, in view of the aforesaid circumstances, we do not find any merit in the OA and hence the same is dismissed with no order as to costs. MA 402/2015 stands disposed.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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