

IN THE HIGH COURT OF JUDICATURE AT BOMBAY, NAGPUR
BENCH, NAGPUR.

WRIT PETITION NO.334 OF 2013

Sanjay Kumar S/o Late Jamnalal Agrawal

..vs..

**The Union of India, thr Secretary, Ministry of Labour & Employment, New
Delhi and ors**

.....
Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders
.....

Court's or Judge's order

Shri M.M. Sudame, counsel for the Petitioner.
Shri Darda, counsel for R-3.

**CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.**
DATE : MARCH 02, 2015.

Heard.

After some arguments, Shri Darda,
learned counsel, wanted an adjournment to
further assist the Court in the matter. However,
looking to the mode and manner in which the
Central Administrative Tribunal has disposed of
O.A. No.2131 of 2012, we do not find it

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necessary to adjourn the case.

Only question is whether the provisions of the Rules which prescribed examination i.e. Limited Departmental Competitive Examination in the grade of Labour Enforcement Officer (C) require condition of aggregate marks in all five subjects while drawing merit or select list or then marks in paper No.2 (General English and Precise Writing) need not be looked into for preparation of such select list.

Shri M.M. Sudame, learned counsel, invites our attention to observations by the Central Administrative Tribunal to urge that in paragraph No.7 *prima facie* case is found in favour of the present petitioner. As such, the respondents ought to have been called upon to file reply affidavit. He also invites our attention to paragraph No.10 to show that only because of

process was over and selected candidate had joined, the Central Administrative Tribunal has refused to interfere. But then, in paragraph No. 11 has also cautioned the employer.

Shri Darda, learned counsel, is relying upon the reply affidavit. He submits that the petitioner has not come up with any specific instance wherein marks of paper No.2 had not been looked into while drawing select list / merit list. The language of said Rule is very clear and hence, the ultimate result in the matter is not unwarranted. He, therefore, submits that this Court should not intervene in extra ordinary jurisdiction in this situation.

The facts show that on 2.8.2015 O.A. No. 2131 of 2012 was before the Central Administrative Tribunal for admission. The respondents herein had not filed reply at that

stage. The observations in paragraph Nos.7 and 11 prima facie show that the Central Administrative Tribunal found some substance in the contention of the petitioner. In this situation, it ought to have called upon the respondents to file their replies and assist it to interpret the provisions. Moreover, Shri M.M. Sudame, learned counsel, has pointed out that the petitioner had attempted to obtain some vital information under the Right to Information Act but it was never supplied.

The refusal by the Central Administrative Tribunal to interfere is not because of interpretation of said Rules. On the contrary, in paragraph No.10, at two places, the Central Administrative Tribunal has used the word “at this stage”. Thus, the Central Administrative Tribunal was either finding the challenge belated or then unsustainable not on merits but

because of its approach to it from some other perspective not apparent on record. The said language implies that had the stage been right, the Central Administrative Tribunal may have intervened in the matter.

As the question is of interpretation of Rules and the Central Administrative Tribunal itself has in paragraph Nos.7 and 11 found some substance in the contention of the petitioner, we find summary dismissal of challenge by the Central Administrative Tribunal unsustainable.

We, accordingly, restore back O.A. to the file of the Central Administrative Tribunal to enable the present respondents to file their replies before the said forum.

The parties to appear before the Central Administrative Tribunal in its next sitting at Nagpur in the month of April, 2015. It is open

to the respondents to file their replies to the
O.A. in the meanwhile.

The writ petition is accordingly partly
allowed and disposed of. No costs.

JUDGE

JUDGE

!! BRW !!