

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.12365 of 2015(O&M)
Date of decision: Dec.07 ,2015

Amit Sharma . . . Petitioner

Versus

Union of India and anr. .. Respondents.

CORAM: HON'BIE MR.JUSTICE HARINDER SINGH SIDHU

Present:- Mr. Vikas Chatrath, Advocate
for the petitioner.
Mr. Puneet Gupta, Advocate
for respondent NO.1.
Mr. Namit Kumar, Advocate
for respondent NO.2.

HARINDER SINGH SIDHU. J.

With the consent of parties, the main case which was listed for 18.1.2016 is preponed and disposed of by this order.

The petitioner has filed this petition being aggrieved of the provision in the advertisement for the Civil Service Examination 2015 whereby candidates who appeared in the Civil Services Examination 2011 but are otherwise ineligible for Civil Services Examination 2015 either due to attainment of upper age limit or exhaustion of number of attempts available for their category, shall be permitted an additional attempt in the Civil Services Examination 2015.

The contention is that limiting this benefit only to such candidates who had appeared in the Civil Services Examination 2011 but not extending the same benefit to such candidates who

though had applied for the said examination 2011 but not appeared in the said examination, was arbitrary being violated Article 14 of the Constitution. The petitioner was such a candidate. Vide interim order June 17, 2015 the petitioner was permitted to apply and it was directed that his application be not summarily rejected. Pursuant to the direction, the petitioner appeared in the preliminary examination but his result has been withheld. The petitioner filed CM 14563 of 2015 seeking directions to the respondents to declare the result of the preliminary examination and permit him to participate in the main exam if he has passed the preliminary exam.

The respondents have entered appearance and filed their replies. A preliminary objection regarding maintainability of the petition has been taken on the ground that as per section 14 of the Administrative Tribunals Act, 1985, (hereinafter referred to as the '1985 Act') jurisdiction power and authority in relation to recruitment and matters concerning recruitment to All India Services or any Civil Services of the Union is of the Central Administrative Tribunal. Accordingly, it is contended that this petition is liable to be dismissed for want of jurisdiction and the petitioner relegated to his remedy under the Administrative Tribunals Act.

This legal position has not been disputed, as it could not have been disputed, by the Ld. Counsel for the petitioner in view of the provisions of the Administrative Tribunals Act and the decision of the Constitution Bench of Hon'ble Supreme Court in **L. Chandra kumar vs. Union of India 1997(3) SCC 261** wherein it has been

held that the Administrative Tribunals will continue to act like Courts of first instance in areas of law for which they have been constituted and that it will not be open for litigants to directly approach the High Court except in cases where the legislation which created the particular Tribunal is challenged. Ld. Counsel for the petitioner only contended that instead of the petitioner having to file a fresh petition/ OA before the Tribunal, this petition be transferred to the Administrative Tribunal. On the other hand Ld. Counsel for the respondents strongly contested this and argued that in terms of the 1985 Act, only such proceedings as were pending before any Court or authority on the date of the commencement of the Act were to be transferred. Cases like the present that are filed after the establishment of the Tribunals, have to be dismissed on the ground of maintainability, leaving liberty to the parties to approach the Tribunal.

Without in any way opining on aforesaid divergent approaches of the Ld. Counsel for the parties, the present petition is dismissed as being not maintainable.

The petitioner would be at liberty to approach the Central Administrative Tribunal for vindication of his grievances.

(HARINDER SINGH SIDHU)
JUDGE

December 07 , 2015
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