

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT APPEAL NO. 19 OF 2016

Prem Prakash Sinha, S/o Shri G.L. Sinha, aged about 34 years, R/o Laxmi Nagar, P.S. Tikrapara, Raipur, District Raipur (C.G.)

... Appellant

Versus

1. State of Chhattisgarh, through Secretary, Department of General Administration, Mantralaya, Mahanadi Bhawan, Naya Raipur (C.G.)

2. Chhattisgarh Public Service Commission, through its Secretary, Shankar Nagar Road, Raipur (C.G.)

3. Controller of Examination, Chhattisgarh Public Service Commission, Shankar Nagar Road, Raipur (C.G.)

... Respondents

For Appellant : Mr. Vinay Pandey, Advocate.

For Respondent 1 : Mr. Prafull Bharat, Additional Advocate General.

For Respondents 2 & 3 : Mr. Y.C. Sharma, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice

Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

Per NAVIN SINHA, C.J.

29/01/2016

1. The Appellant assails a common order dated 11.12.2015 passed in Writ Petition (S) No. 1329 of 2015 and analogous cases, dismissing the writ applications declining to interfere with the examination results published by the Respondent-Commission on 7.4.2015, with regard to appointments on the post of Assistant Director (Public Relations) and Registrar, Deputy Registrar and Assistant Registrar in different Universities.

2. The Learned Single Judge, in view of the three men expert committee report, rejected the challenge that questions at Sr. No. 116 to 130 in the examination were outside the syllabus as mentioned in the advertisement dated 11.6.2014.

3. Learned Counsel for the Appellant submitted that in Paper-II, dealing with Aptitude Test, Items No. 6 & 7 required knowledge of Hindi at class 10th level and of Chhattisgarhi. The advertisement did not mention that the questions concerning aptitude could also be related to the English language. Questions at Sr. No. 116 to 130 related to the English language and were therefore outside the syllabus. These 15 questions were for a total of 30 marks which can adversely affect a candidate. These fifteen questions were therefore required to be deleted and the results published afresh.

4. The Respondents before publication of the results invited objections and which were filed within time by the Appellant. There has been no objective consideration of the objections. It has been rejected mechanically stating that the questions were within the syllabus. Merely because the Respondents may have referred the objections to a committee of experts cannot lead to any conclusive opinion that the report of the experts was necessarily correct. The jurisdiction of the Court under Article 226 in powers of judicial review to examine the objectivity of the expert opinion is not barred as held in 2014 (3) SCC 767 (Ganpath Singh Ganga Ram Singh Rajput v. Gulbarga University & Others).

5. Learned Counsel for the Respondents submitted that once objections had been filed and they have been considered, the Appellant has no further cause of action. Whether the questions were within the syllabus or outside is a matter for experts in the field to decide. The objections were referred to a three men committee of experts who after applying their mind arrived at the conclusion that the questions were within the syllabus prescribed in the advertisement. The report of the expert committee was never challenged by the Appellant. The Learned

Single Judge has adequately discussed the meaning of the term Aptitude Test which includes Interpersonal Skills and Communication Skills. Communication Skills included Verbal Messages, Para-verbal Messages and Non-verbal Messages. The University had also placed materials from different Universities that Communication Skills included questions in the English language. The primacy of the English language as a major means of communication has also been noticed. The posts were Class-I and Class-II posts. The duties and responsibilities require skilled persons with knowledge of English language. The Learned Single Judge has elaborately discussed that the Court in exercise of judicial review would not interfere with the opinion of experts by relying on more than one precedent. The Appellant attempted the questions at Sr. No. 116 to 130 in English language. It is not his case that he was unable to answer the questions because of complete lack of the English language. If his answers have turned out to be wrong and he has lacked skills in the English language, that cannot be a ground to challenge the advertisement.

6. We have considered the submissions on behalf of the parties.

7. The written examination was held on 12.10.2014. The Commission published the model answers and invited objections. The Appellant submitted his objections with regard to questions 116 to 130 contending that they were outside the syllabus as it did not provide for questions in the English language referring to Items 6 & 7 of Paper-II under the heading 'Aptitude Test'. The Commission immediately referred the matter to a committee of three experts who concluded that the questions were within the prescribed syllabus and knowledge of English language was but an integral part of Aptitude Test. It needs to be noticed that the Aptitude Test did not consist only of interpersonal

skills including communication skills but also logical reasoning and analytical ability, decision making and problem solving, general mental ability, basic numeracy and data interpretation. In addition to the same, the candidate was required to have knowledge of Hindi language up to Class 10th level and knowledge of Chhattisgarhi language. The advertisement nowhere stipulated that the questions with regard to the other items of the Aptitude Test could not be with regard to the English language. In other words, mere knowledge of the English language would not suffice unless the candidate had knowledge of the Hindi language up to Class 10th and also the Chhattisgarhi language.

8. In Ganpath Singh (supra) relied upon by the Appellant, the conclusion that the opinion of the academican is entitled to weight, but if two views are possible the Court retains discretion in the matter came to be delivered in the background of the conditions stipulated in the advertisement and the report of the expert committee contrary to the same holding for equivalence of the qualification. The facts are completely distinguishable.

9. In 1979 (4) SCC 686 (State of Madhya Pradesh & Another v. Shri Ram Raghubir Prasad Agrawal & Others), it was observed as follows:-

“19. The Board is the legislative instrument for laying down the syllabi and must be presumed to possess academic expertise sufficient to understand what is a syllabus. Words of technical import whose signification is familiar 'a little learning is a dangerous thing' and courts should not 'rush in' tempted by definitional attraction, where experts 'fear to tread'.”

10. In 2013 (10) SCC 519 University Grants Commission & Another v. Neha Anil Bobde (Gadekar)], it was observed that in academic matters, unless there was a clear violation of statutory provisions, the regulations or any notification issued, the Court should keep its hands off since those issues fall within the domain of the experts. The Court should not

generally sit in appeal over the opinion expressed by the expert academic body and normally it is wise and safe for the Court to leave the decision of the academic experts who are more familiar with the problems faced than the Courts generally are.

11. The Appellant having answered the questions relating to the English language, is estopped from now contending that no such questions could have been asked, after his answers have turned out to be not up to the mark. The expert committee report was not challenged before the Learned Single Judge. It was not the case of the Appellant that the three persons nominated to examine the matter lacked the qualification or ability to act as experts. In academic matters, this Court would be loath to interfere by sitting over the view of the experts with regard to what would constitute part of the syllabus unless there was violation of any statutory rules, regulations or notifications. None of these issues arise for consideration presently.

12. There is no merit in the appeal.

13. The appeal is dismissed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge