

\$~19

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1717/2018 with CM Nos.7137-7139/2018

RAJU KUMAR AND ORS

..... Petitioners

Through: Mr.Gaurav Gupta & Mr.Jaspal
Singh, Advocates.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr.Akshay Makhija, CGSC
with Ms.Mahima Bahl,
Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

%

23.02.2018

1. The petitioners are aggrieved by the common order dated 16.02.2018, passed by the Central Administrative Tribunal, on the interim application filed by them in O.A. No.3526/2017 and one filed by another set of applicants in O.A. No.749/2018.

2. We may note at the outset that the petitioners have filed the captioned O.A. against the respondent No.1/Ministry of Personnel, Public Grievance & Pension and the respondent No.2/Staff Selection Commission, praying *inter alia* for issuing directions to them to adopt neutralization/equalization/ moderation process in respect of all the four Tiers/stages of the Combined Graduate Level Examination, 2017

(CGLE-2017), being conducted by the respondent No.2 and declare the results accordingly. The said O.A. is still pending adjudication before the Tribunal and the next date fixed in this regard is in April, 2018.

3. By way of the interim application, the petitioners had requested the Tribunal to direct the respondents not to publish or declare the *“raw Results of CGLE-2017 Tier-I Examination”*. No ex-parte interim order was granted in favour of the petitioners till the impugned order dated 16.02.2018 came to be passed by the Tribunal, dismissing the miscellaneous applications filed by the petitioners herein, as also the one by the applicants in O.A. No.749/2018.

4. Tier-I examination was scheduled by the respondent No.2/SSC from 05.08.2017 to 24.08.2017. The petitioners had approached the Tribunal by filing the O.A. and seeking equalization/normalization/moderation of the process in respect of all the four Tiers of the subject examination, only after participating in the Tier-I examination. When the petitioners had filed the O.A. in September, 2017, the results of Tier-I examination had not yet been declared. The said results were declared only on 30.10.2017. Subsequently, the revised Tier-I examination results were declared on 11.01.2018. Admittedly, none of the petitioners before us, who had participated in the Tier-I examination, were successful therein.

5. The miscellaneous application on which the impugned order has been passed, was filed by the petitioners after the results of the Tier-I examination had been declared. The prayer made therein was to stay

the conduct of the Tier-II examination during the pendency of the O.A. The applicants in the connected O.A. had filed a separate application praying *inter alia* that the proposed Tier-II examination be stayed or in the alternative, they may be permitted to participate provisionally in the said examination. Pertinently, Tier-II examination was scheduled by the respondent No.2/SSC from 17.02.2018 to 22.02.2018, which stage is also over by now.

6. In the impugned order, the Tribunal took note of the fact that the advertisement for the CGLE-2017 was issued on 16.05.2017, and the last date for submitting the applications was 16.06.2017. The said advertisement did not state that any system of equalization/normalization/moderation or scaling down would be adopted. Therefore, all those who had applied, were well aware of the mode and manner in which the subject examination was going to be conducted and being fully cognizant thereof, they had elected to participate in the said examination. The advertisement had also detailed the syllabi for the examination for each Tier and none of the 140 applicants before the Tribunal had raised a dispute that the question papers were beyond the prescribed syllabus. Their only grievance was that some question papers were tougher than the others.

7. Observing that the Tribunal cannot issue any directions mid-stream during the course of conducting the examinations, to introduce equalization/normalization and that too at the instance of those who had failed to clear the Tier-I examination, it had declined to grant any interim relief to the petitioners. We can do no better than to reproduce below, the observations made by the Tribunal in para 15:-

'15. Assuming that the system of equalization, normalization or moderation, whatever it may be, may be required to be introduced on the basis of expert opinion, but the Tribunal cannot issue any directions to introduce such a system mid-way. More than fifteen lakh candidates appeared. Only few of the unsuccessful have challenged the examination. It cannot be lost sight of that the problem of unemployment in the country is huge; the educated youth is bound to frustrate, but that per se does not mean that the established system of examination should be interfered with merely because it has some deficiencies. We have some 140 petitioners before us who have filed these petitions and are seeking stalling of the examination process. The Tribunal has to think of lakhs of candidates who have successfully qualified despite the deficiencies, and have prepared themselves to appear in the next stage of the examination. Stalling the examination at this stage would be doing grave injustice to lakhs of candidates throughout the country who have qualified the Tier-I examination. The balance of convenience lies in favour of those who have qualified the examination and are ready and willing to participate in the next stage of the selection process, i.e., Tier-II examination. Thus the prayer of the applicants for staying the Tier-II examination or cancellation thereof is not justified at all. The alternative prayer of the applicants that they may be allowed to participate in the Tier-II examination is also not permissible. Unsuccessful candidates cannot be permitted to compete with those who have successfully qualified. Even the marks secured by the applicants in Tier-I examination are not known. Allowing unsuccessful candidates to participate in further examination would itself be travesty and would be unfair

to those who have successfully qualified. In the even we allow the present applicants, then all those who have failed to qualify Tier-I examination should also be allowed. The respondent-Commission must have made all relevant arrangements, i.e., booking of venues, the invigilation staff and host of other steps which are required to be put in place for such a huge level examination all over the country involving hundreds of centres in nine regions. We are afraid that we should venture into such an area at the cost of candidates who are aspiring for the jobs and might have burned their mid-night oil during past few months to participate in the examination. Their hopes and aspirations cannot be shattered at the instance of unsuccessful candidates. We are not oblivious of the fact that there may be some merit in the submissions of the applicants, but that per se would not be sufficient to mar the career of lakhs of candidates who have succeeded despite deficiencies.”

8. It is noteworthy that as many as 15 lakh applicants all over the country had applied to the respondent No.2/SSC for participating in the subject examination. After the results of the Tier-I examination were declared, 1.8 lakh applicants who had qualified in the said examination, had participated in the Tier-II examination. The only interim relief that the petitioners had asked for before the Tribunal was for staying the conduct of the Tier-II examination, which by now has been rendered infructuous inasmuch as the said examination has already been conducted. The main petition filed by the petitioners is pending adjudication and is listed in April, 2018. In such circumstances, we see no reason to entertain the present petition.

Even otherwise, there does not appear any illegality or arbitrariness in the conclusion arrived at in the impugned order that warrants interference.

9. The petition is accordingly dismissed *in limine*, along with the pending applications.

HIMA KOHLI, J.

P.S.TEJI, J.

FEBRUARY 23, 2018

'hkaur'

