

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

% **Date of decision: 05th March, 2021**

+ **W.P.(C) 2988/2021**

RAHUL KUMAR AND ORS

..... Petitioners

Through: Mr.Rahul Kumar, Advocate

Versus

UNION OF INDIAN AND ANR

..... Respondents

Through: Mr.Naresh Kaushik for UPSC.
Mr. Rajesh Gogna, CGSC with
Mr.Srivats Kaushal, Advocate for
UOI

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MR. JUSTICE AMIT BANSAL

JUDGMENT

[VIA VIDEO CONFERENCING]

AMIT BANSAL, J. (Oral)

C.M. No.9045/2021 (for exemption)

1. Allowed, subject to all just exceptions and as per extant Rules.
2. The application stands disposed of.

W.P.(C) 2988/2021 & C.M. No.9044/2021 (for impleadment)

3. The present writ petition impugns the order dated 2nd March, 2020 by the Central Administrative Tribunal, (CAT), Principal Bench in O.A.

No.607/2020. Vide the said order, the Tribunal was pleased to dismiss the said O.A.

4 It is the case of the petitioners herein that they took part in Civil Services Examinations (CSE) various times from 2013 to 2015. They contended that the UPSC altered the pattern of the examination just few weeks before the date of the examination in the aforesaid years. As a result, the preparation put in for the said examination by the petitioners for several months before, had gone waste. In 2013, barely 80 days before the preliminary examinations were scheduled to be held, the syllabus of the mains examination was changed. Instead of two optional subjects earlier, there was one optional subject of 500 marks and there were four compulsory papers of General Studies of 250 marks each, which included one newly introduced paper of Ethics and one paper of Essay which was for 250 marks. Weightage of interview was brought down to 275 marks. It is the case of the petitioners that they never got time to prepare for these changes. Similarly, changes were made in respect of the 2014 CSE which put them at a disadvantage. Again in 2015, UPSC changed the whole pattern of the preliminary examinations, barely three months before the preliminary examination was scheduled. Accordingly, the petitioners approached the Tribunal seeking a direction that they should be allowed a compensatory attempt to appear in UPSC examination at least one more time in 2021 or 2022 as a onetime relief.

5. The O.A. was contested by the respondents stating that the petitioners have already exhausted all the attempts to take the CSE and have not been successful. It was further stated that the examinations were held long ago

and selections were completed long time back and, therefore, the petitioners cannot claim any relief at this stage.

6. The Tribunal dismissed the said O.A. on the grounds that the petitioners have approached the Tribunal belatedly and giving relief at this stage, would lead to several complications. Lakhs of candidates who were not successful in the examinations held in those years would get an opportunity to appear again.

7. We have heard the counsel for the petitioners as well as the counsel for the respondents who appeared on advance notice.

8. The counsel for the petitioners has contended that last minute change in the syllabus of the examination gravely affected the preparation of the petitioners for the examination. Therefore, the petitioners should be granted one more opportunity to appear in the CSE. He argued that the petitioners never slept over their rights and that they wrote several letters to PMO and to Members of Parliament and they believed that their demand for compensatory attempt would be granted. It was further contended that in respect of 2011 CSE, when last minute changes to the syllabus were made, the Government agreed to allow a compensatory attempt to be given to the candidates in the year 2015. Lastly, it was contended that the last minute changes to syllabus made by the respondents was arbitrary and, therefore, violative of the rights of the petitioners under Article 14 of the Constitution.

9. It was submitted on behalf of the counsel for UPSC that Rules for conduct of CSE are enacted by respondent No. 1 and respondent No. 2, UPSC only conducts the examinations. It was further submitted that there

were no fundamental changes in the examination pattern and further, that the O.A. filed was highly belated. It was further stated that the petitioners having attempted the examinations are now estopped from questioning the fairness of the same.

10. The contention of the petitioners that the last minute change in the syllabus affected their preparation for the examinations and prejudiced their attempt to qualify, is without any basis. A perusal of the writ petition demonstrates that the candidates had sufficient time after changes were made. For the year 2013, changes were made in scheme of the mains examination, 80 days before the preliminary examinations were scheduled. For the year 2014, there was no change in the syllabus, but only weightage of CSAT was reduced from 200 to 185. Similarly, in 2015, the change was made 3 months before the preliminary exams.

11. In an examination, such as the Civil Services Examinations, the focus is to test the knowledge of the candidate. Knowledge is acquired on a regular and ongoing basis and cannot be based just on cracking the exams, by cramming up the syllabus, few months before the examinations. Besides, whatever changes were made in the syllabus, affected all the candidates who took the examination. Therefore, the petitioners cannot claim that the said changes in syllabus affected only the petitioners. In any case, no candidate has a right to continuation of the same syllabus/scheme of examinations forever.

12. It is also a settled principle of law that after having participated in the selection process or taken an examination without any protest or demur, the unsuccessful candidates are estopped from challenging the fairness of

selection process or the examination. In this regard, reference may be made to decisions of the Hon'ble Supreme Court in *Madan Lal Vs. State of Jammu and Kashmir* 1995 (3) SCC 486 and *Dhananjay Malik & Others Vs. State of Uttaranchal and Others* (2008) 4 SCC 171.

13. In the recent judgment of the Hon'ble Supreme Court in *Rachna and Others Vs. Union of India and Another* 2021 SCC OnLine SC 140, a similar prayer was made to allow the candidates for the UPSC examination one additional attempt as they could not prepare for the UPSC examination in October, 2020 on account of the pandemic. It was contended by the petitioners therein that additional attempts were granted by the respondents in the past on account of change in examination pattern/syllabus which affected the preparation of the candidates for the examinations. The Hon'ble Supreme Court in the judgment aforesaid observed that, merely because as a matter of policy, if the respondents had granted relaxation in the past on account of change in examination pattern/syllabus, the same cannot be the basis to grant mandamus to the respondents to come out with a policy granting relaxation to the participants who had availed last attempt or have crossed the upper age, as a matter of right.

14. The petitioners have also failed to give a satisfactory explanation on the issue of delay and laches. The cause of action, if any, arose in their favour in the years 2013-2015, whereas they approached the Tribunal only in 2020. Making of representations to Members of Parliament and PMO would not justify the delay and laches on the part of the petitioners in pursuing their legal remedies.

15. We see no reason to interfere with the order passed by the Tribunal.
Dismissed.

AMIT BANSAL, J.

RAJIV SAHAI ENDLAW, J.

MARCH 05, 2021 /A

