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

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Date of Decision: 6.10.2021

+ **W.P.(C) 11375/2021**

SUSHIL GAUR AND ORS.

..... Petitioners

Through: Mr. Gaurav Gupta, Adv.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Ajay Digpaul, CGSC with Mr.
Kamal R. Digpaul, Adv. for UOI

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

[Court hearing convened *via* video-conferencing on account of COVID-19]

RAJIV SHAKDHER, J. (ORAL):

CM APPL. 35032-33/2021

1. Allowed, subject to just exceptions.

W.P.(C) 11375/2021

2. With the consent of the counsel for the parties, the writ petition is taken up for hearing and final disposal, at this stage itself.

3. This writ petition is directed against an interlocutory order dated 14.09.2021, passed by the Central Administrative Tribunal [in short, “the Tribunal”].

3.1. The impugned order appears to have been passed in the interlocutory application i.e., M.A. No.2153/2021 and the main matter i.e., O.A. No.925/2021.

3.2. The petitioners before us are aggrieved by the interim direction issued by the Tribunal, vide order dated 14.09.2021.

4. At this juncture, we may note that, this is the second round for the petitioners, inasmuch as they approached this Court on an earlier occasion as well, when interim protection was not granted by the Tribunal.

4.1. The petitioners had filed a writ petition i.e., W.P.(C) No.7917/2021. The said writ petition was directed against the order dated 22.07.2021, passed by the Tribunal, in the very same O.A. i.e., O.A. No.925/2021.

4.2. On 06.08.2021, we had disposed of the aforementioned writ petition, with the following observations:

"2. This writ petition is directed against the interim order dated 22.07.2021, passed by the Central Administrative Tribunal (in short 'the tribunal') in OA No.925/2021.

2.1. The Tribunal has fixed the main matter for final disposal on 24.11.2021.

3. Mr. Gaurav Gupta, who appears on behalf of the petitioners, says that the main matter will be rendered infructuous, as the selection process will get over on 16.09.2021.

3.1. To be noted, in the order dated 22.07.2021, the Tribunal has indicated that, the final selection process concerning Combined Graduate Level Examination, 2019 shall be subject to the final outcome in the main matter i.e. O.A.No.925/2021.

3.2. Mr. Gupta says that, the respondents were given three opportunities to file a reply despite which reply has not been filed by the respondents.

3.3 In this behalf, Mr. Gupta has drawn our attention to the fact [which is also noticed by the Tribunal in the impugned order] that, opportunity was given by the Tribunal to the respondents to file a reply in the aforesaid OA on following dates i.e. 30.04.2021, 07.07.2021 and lastly, via the impugned order, dated 22.07.2021.

3.4. We are told by Mr. Gupta that, the reply has not been filed, as yet, although, the extended timeframe [i.e. two weeks, granted via the impugned order] is coming to an end shortly.

3.5. Mr. Rakesh Kumar, who appears on advance notice on behalf of the respondents, does not dispute the fact that, the respondents have taken time from the Tribunal, to file a reply, as indicated above, on three occasions.

3.6. Mr. Kumar says that, a reply will be filed within the timeframe accorded by the Tribunal, vide order dated 22.07.2021.

3.7. Mr. Kumar says that, the best way forward in the matter would be to advance the date of hearing before the Tribunal in O.A.No.925/2021, as that is the only way to avoid complications in the matter.

4. Having regard to the submissions made by the learned counsel for the parties, list the matter i.e. O.A.No.925/2021 before the concerned Registrar of the Tribunal on 13.08.2021 to ensure that the pleadings in the matter are completed.

4.1. The matter i.e. OA No. 925/2021 will be placed before the concerned Bench of the Tribunal, for directions, on 01.09.2021.

5. The writ petition is disposed of in the aforesaid terms.

6. The Registry will dispatch a copy of the order passed today to the Registrar of the Tribunal."

4.3. It is not in dispute that, pursuant to our order dated 06.08.2021, the matter was placed before the concerned bench of the Tribunal on 01.09.2021.

4.4. We are informed [and there is, once again, no dispute on that score,] that, the matter was, thereafter, listed on 06.09.2021, 13.09.2021 and 14.09.2021.

4.5. As noted above, on 14.09.2021, as indicated hereinabove, the impugned order was passed.

5. Mr. Gaurav Gupta, who appears for the petitioners, says that, despite directions being issued by this Court, neither a substantive direction was issued in the interlocutory application nor was the main matter heard, by the Tribunal

5.1. In this behalf, it would be relevant, at this point, to extract the observations made by the Tribunal, in the impugned order:

"9. We have already recorded that various judgments have been referred to and relied upon by the learned counsels for the parties and it may not be possible to hear the matter finally and pass final order(s) before the Tier IV examination scheduled on 15.09.2021 for paucity of time. It is not in dispute that interim relief has been sought by the applicants vide Para-9 of the OA as well as the MA referred to hereinabove. However, an appropriate interim relief could not be granted in order to enable the respondents to file their reply/short reply. It may also not in dispute that, in the facts and circumstances, appropriate interim relief can be granted by this Tribunal in view of the Rules of Practice as well as having inherent jurisdiction.

10. Learned counsel for the applicants has very fairly submitted that Tier-IV examination is scheduled on 15.09.2021 and the applicants being at various places of the country may not be in a position to participate in the Tier-IV examination scheduled on 15.09.2021 even if this Tribunal passes an order in this regard and the respondents permit them even provisionally for such participation.

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12. In the aforesaid facts and circumstances and in the interest of justice, as an interim measure, it is directed that the result of Tier-II, Tier-III and Tier-IV examinations and/or final result pursuant to the aforesaid advertisement/notice dated 22.10.2019 (Annexure A-1) shall be subject to the final

decision in the present OA."

5.2. Mr. Ajay Digpaul, who appears for the respondents, informs us that, the last leg of the Combined Graduate Level Examination, 2019 [in short "CGLE 2019"] stands concluded. The last leg, we are told, required the concerned candidates, who had crossed various tiers, to take a skill test.

5.3. The record shows that, the candidates were supposed to pass through four tiers. The petitioners before us, concededly, participated in three tiers i.e., Tier-1, Tier-II and Tier-III.

5.4. As a matter of fact, the grievance of the petitioners earlier was that their marks for Tier-II were not disclosed .

5.5. On merits, the essential grievance of the petitioners is that, the method of normalisation, which is applied by the respondents *qua* the marks of the candidates, has been carried out in a warped manner.

5.6. Illustratively, Mr. Gupta has drawn our attention to paragraph 27 of the writ petition. For the sake of convenience and in order to appreciate the essential grievance of the petitioners, the said paragraph is extracted hereafter:

"27. Upon a perusal of Tier 2 marks of the Petitioners, it is clear that the marks obtained by the Petitioners in Tier 2 examination have been illegally and unjustly reduced. The data shows that the reduction of marks of the Petitioners due to normalization has been absurdly high for the Maths paper. For example - the reduction of marks due to normalization in Tier 2 examination of maths paper (out of a total of 200 Marks) has been as below:-

S.NO.	PETITIONER NAME	REDUCTION OF MARKS DUE TO NORMALIZATION IN MATHS PAPER
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6.	<i>Manu Sharma</i>	-242
7.	<i>Jatin Jain</i>	-226
8.	<i>Manish Kumar</i>	-207.6
9.	<i>Monika Meena</i>	-169
10.	<i>Ankita</i>	-153

It is highly absurd that for the Maths paper, which itself was of 200 marks, the normalization has resulted in reduction of more than 200 marks in cases mentioned above. For all Petitioners such absurd reduction of marks has been made by the Respondents. It is evident that the Petitioners have been unjustly and arbitrarily penalised. Copies of the marks released by the Respondents for Tier 2 examination of the Petitioners is annexed herewith and marked as ANNEXURE P-18(Colly). A copy of a table which shows the absurd reduction of marks due to normalization of the Petitioners is annexed herewith and marked as ANNEXURE P-19."

6. Mr. Gupta also informs us that, nearly 50,000 candidates would perhaps get selected, pursuant to the aforementioned examination.

6.1. It is Mr. Gupta's contention that, if the final selections take place, it would complicate the matter beyond repair.

6.2. Mr. Digpaul, cannot but accept the position, that the failure to deal appropriately with the interlocutory application would lead to a situation, which would complicate the inter-se rights of the parties, not only the ones who stand arrayed in the O.A. i.e., the original applicants, but also the rights of those, who may acquire interest, once the selection process is concluded.

7. We must also record our concern as regards the Tribunal's failure to appreciate the reason as to why the order dated 06.08.2021 [as referred to hereinabove] was passed by this Court.

7.1. Undoubtedly, if selections take place, it would result in complications, which may be difficult to address.

7.2 What is even more curious is that, when the petitioners had approached this Court for the first time, the date given by the Tribunal for disposing of the O.A. i.e., O.A. No.925/2021 was 24.11.2021, and because of persistent accommodation sought by the respondents, the end result is that the matter is now fixed for disposal, on 29.11.2021.

8. Thus, having regard to the aforesaid circumstances, we are constrained to issue the following directions:

(i) Since all four tier examinations i.e., Tier-I to IV have already been conducted, the respondents are restrained from disclosing the result qua CGLE 2019, till the disposal of the O.A. i.e., O.A. No.925/2021.

(ii) The results of the candidates will be kept in a sealed cover, and appointment letter(s) to successful candidates will not be issued, till such time, the Tribunal disposes of the O.A.

(iii) At the time of disposing of the O.A., the Tribunal will pass suitable directions as to what is required to be done, at the respondents' end.

(iv) The respondents will also communicate, *via* a post uploaded on their official website [having regard to the large number of candidates who are involved in the examination, as adverted to hereinabove] that, their appointment will be subject to the result in O.A. No.925/2021.

9. The writ petition is disposed of, in the aforesaid terms.

10. We expect the Tribunal to hear the parties and dispose of the matter, at the earliest, without further delay.

11. Parties will be at liberty to move the Tribunal, for advancing the date of hearing.

RAJIV SHAKDHER, J

TALWANT SINGH, J

OCTOBER 6, 2021/rb

Click here to check corrigendum, if any

