

Neutral Citation Number is 2023:DHC:5119



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

Date of decision: 24th JULY, 2023

IN THE MATTER OF:

+ **W.P.(C) 2143/2023**

KESHAV KUMAR THAKUR

..... Petitioner

Through: Mr. Ghanshyam Kumar, Advocate

versus

**DIRECTORATE GENERAL OF PERFORMANCE
MANAGEMENT & ORS** Respondents

Through: Mr. Aditya Singla, SSC with
Ms. Charu Sharma, Advocate
Ms. Priyanka Das, Ms. Perna Dhall,
Advocates for UoI

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT(ORAL)

1. The Petitioner has approached this Court for a direction to the Respondents to declare him as a qualified candidate as per Customs Brokers Licensing Regulations – 2013 and to issue the Customs Brokers License to him.
2. Facts of the case reveal that Respondent No.1 issued a notice dated 11.04.2017, inviting applications for the Written Examination for issuance of license to successful candidates to act as Custom Brokers under Regulation 6 of the Customs Brokers Licensing Regulations – 2013. As per the public notice, the examination was scheduled to be held on 19.01.2018.

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As per the notice, the examination process was to be conducted in two stages – written examination and oral examination. It is stated that to qualify the written examination a candidate was to score a minimum of 50 marks and the oral examination was to be cleared in two attempts by securing minimum 50 passing marks. It is stated that the Petitioner herein applied for the said examination and cleared the written examination by securing 61.5 marks in it. It is stated that on 29.06.2018 the Petitioner herein received a letter calling him to appear in the oral examination which was to be held on 12.07.2018. It is stated that the Petitioner could not clear the said oral examination and as per the prevailing rules he applied for second attempt of oral examination. It is stated that *vide* letter dated 30.04.2019 he was called to appear for second attempt of oral examination which was to be held on 25.05.2019. It is stated that in the said oral examination the Petitioner got 51 marks and, therefore, as per the procedure, the Petitioner was entitled to get the Customs Brokers License. However, the Petitioner was not granted the license on the ground that the rules had been changed mid-way and the minimum marks required to clear the oral examination has been increased to 60.

3. Material on record discloses that certain candidates, who scored between 50-60 marks in the oral examination, approached this Court by filing a batch of Writ Petitions being, W.P.(C) 12777/2019, W.P.(C) 12865/2019 & W.P.(C) 13132/2019. This Court *vide* Order dated 18.02.2022 allowed the said Writ Petitions by holding that the Respondents could not have changed the rules of examination mid-way and could not have increased the minimum marks from 50 to 60 which were required to pass the oral examination. This Court by the said Order directed the



Respondents to issue Customs Brokers License to the Petitioners therein.

Relevant portion of the said judgment reads as under:

“19. That apart, it is not the case of the respondents that before the petitioners appeared in the oral examination held on May 23/25, 2019 the petitioners were put to notice that their consideration for oral examination would be on the basis of 60 marks. In the absence of such a notice to the petitioners the criteria could not have been changed. Further, it is not the case of the respondents that petitioners have not achieved 50 marks in the oral examination held on May 23, 2019/May 25, 2019, hence, the petitioners having qualified the written examination on the basis of 50 marks, they have to be assessed at 50 marks in the oral examination, otherwise, it shall have the effect of changing the criteria midway, which is impermissible.”

4. It is contended by the learned Counsel for the Petitioner that it was the duty of the Respondents to extend the same benefit, as has been given to the Petitioners in W.P.(C) 12777/2019, W.P.(C) 12865/2019 & W.P.(C) 13132/2019, to the Petitioner herein and the Respondents could not have restricted the benefits only to those persons who had approached this Court and had secured a declaration of law in their favour.

5. Challenging the rejection of his candidature, the Petitioner has approached this Court by filing the present Writ Petition.

6. Heard the Counsel for the parties and perused the material on record.

7. Admittedly, the Petitioner herein cleared the first round of examination and he was unsuccessful in clearing the oral examination in the first round and as per the norms he applied for second round of oral examination which he cleared by securing 51 marks in it. The Respondents



herein denied Customs Brokers License to candidates who secured less than 60 marks in the oral examination on the ground that the rules have been changed mid-way and the minimum marks required to clear the oral examination has been increased to 60 marks. It is also undisputed that persons similarly situated to the Petitioner herein have approached this Court by filing W.P.(C) 12777/2019, W.P.(C) 12865/2019 & W.P.(C) 13132/2019 and this Court vide its Order dated 18.02.2022 has directed the Respondents to issue a Customs Brokers License to the Petitioners therein on the ground that the Respondents could not have changed the qualifying criteria of the oral examination mid-way after the recruitment has begun by increasing the minimum marks that were required to be obtained by a candidate in order to qualify the oral examination.

8. It is well settled that when a citizen aggrieved by the action of a government department has approached the Court and obtained a declaration of law in his favour, others, in like circumstances, should be able to rely on the sense of responsibility of the department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievances to court [refer: Amrit Lal Berry v. CCE, (1975) 4 SCC 714].

9. Applying this principle to the present case, it was the duty of the Respondents to extend the benefit of the Order dated 18.02.2022 to the Petitioner herein without expecting that every candidate who has secured more than 50 marks in the oral examination must run to this Court to obtain a declaration in their favour.

10. Accordingly, the Writ Petition is allowed and disposed of. The Respondents are directed to issue Customs Brokers License to the Petitioner

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herein in light of the Order dated 18.02.2022, which has attained finality.
Pending applications, if any, also stand disposed of.

SUBRAMONIUM PRASAD, J

JULY 24, 2023

Rahul