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

Reserved on: 04.03.2025
Date of Decision: 17.03.2025

+ **W.P.(C) 11322/2023 & CM APPL. 44003/2023**

STAFF SELECTION COMMISSION & ORS.Petitioners

Through: Mr. Vijay Joshi and
Mr. Shubham Chaturvedi, Advs.

versus

RUBY & ORS.

.....Respondents

Through: Mr. Amit Kaushik and
Mr. Himanshu Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

J U D G M E N T

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AJAY DIGPAUL, J.

1. The present writ petition challenges the order dated 22.02.2023 passed by the Central Administrative Tribunal¹, Principal Bench, New Delhi, in O.A. No. 2324/2021, wherein the Tribunal directed the Petitioners to offer appointments to the Respondents for the post of Statistical Investigator Grade- II under the Combined Graduate Level Examination 2019.

2. The relevant facts, as emerged from the pleadings, are as

¹ Hereinafter "Tribunal"



follows:

The Staff Selection Commission², the petitioner herein, issued a notification on 22.10.2019 for the Combined Graduate Level Examination, 2019 for the recruitment of candidates to various Group 'B' and 'C' posts, including the position of Statistical Investigator Grade-II³. The Combined Graduate Level Examination 2019 Notice⁴ expressly stipulated the essential educational qualifications required for the SIG-II post, as detailed below:

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"8.3 Statistical Investigator Grade-II:

8.3.1 Bachelor's Degree in any subject with Statistics as one of the subjects from a recognized University or Institute. The candidates must have studied Statistics as a subject in all the three years of the graduation course."

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3. With regard to the essential educational qualification prescribed for the said post, the relevant extract of the Recruitment Rules⁵ for SIG-II, as originally notified by the Office of Registrar General, Ministry of Home Affairs on 01.10.2019, reads as under:

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"Essential:

Bachelor degree in any subject with Statistics as one of the subject from a recognised University or Institute.

Note 1: *The qualifications are relaxable at the discretion of the Staff Selection Commission or competent authority, for reasons to be recorded in writing, in case of candidates otherwise well qualified."*

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² Hereinafter "SSC"

³ Hereinafter "SIG-II"

⁴ Hereinafter "CGLE Notice"



4. The Scheme of the Examination, as per the CGLE Notice, required the candidates to clear the various levels followed by the process of Document Verification, as reproduced below:

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“11 The Scheme of Examination:

11.1 The Examination will be conducted in four tiers as indicated below:

- i. Tier-I: Computer Based Examination*
- ii. Tier-II: Computer Based Examination*
- iii. Tier-III: Pen and Paper Mode (Descriptive paper)*
- iv. Tier-IV: Computer Proficiency Test/Skill Test (wherever applicable)/ Documents Verification.”*

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5. All the Respondents herein, among other candidates, applied for the SIG-II post, appeared in the CGLE 2019 examination, and successfully cleared Tier-I, Tier-II, and Tier-III. However, during the document verification process in September 2021, they were found ineligible on the ground that they had not studied Statistics in all three years of graduation, as mandated under the CGLE Notice. Consequently, their candidature for the post was rejected.

6. The educational qualifications of the Respondents are specified as under:

Applicants	Educational Qualifications
Ruby (Respondent No. 1)	B.Com (H) with statistics as a subject in First Year & Second Year and MBA (HR) with Statistics as a subject in Semester-I.



Shagun Som (Respondent No. 2)	B.Com with statistics as a subject in First Year.
Ekal Dixit (Respondent No. 3)	B.Sc. Mathematics.

7. Aggrieved by their rejection, the Respondents preferred OA No. 2324/2021 before the Tribunal, contending that the eligibility criteria stipulated in the CGLE Notice was inconsistent with the RRs, which did not prescribe the requirement of studying Statistics in all three years of graduation. The Respondents sought relaxation of the eligibility criteria and reconsideration of their candidature.

8. The Tribunal, vide order dated 22.02.2023, allowed the O.A., holding that the RRs would prevail over the CGLE Notice. The relevant portions of the impugned order are reproduced herein under:

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“7. We find that the crux of the matter lies in the discrepancy between the eligibility criteria regarding qualifications prescribed under the advertisement vis-a-vis the RRs. The criteria under the advertisement is more stringent than the one prescribed under the RRs. It is a well established law that in case of such a discrepancy, the criteria prescribed under the RRs shall prevail. It has also been highlighted by the learned counsel for the applicants that vide order dated 22.02.2021, the Tribunal had issued notice to the respondents with an interim direction that “In the meantime, if any selections are made in pursuance of the CGL Examination 2019 for the post of SIG-II, the same shall be subject to the outcome of the O.A.” He further states that the present applicants are within the zone of consideration inasmuch their names appear at serial nos.382, 134 and 150 respectively in the Select List against the advertised vacancies.

8. We, therefore, find that the applicants had been selected and their names appeared in the Select List but at the stage of document verification, the aforementioned doubts were raised and that is why their names were not considered. We also find that there was no formal order of rejection qua the applicants. Learned

Signature Not Verified

Signed By: MEEENU W.P.(C) 11322/2023
KALRA
Signing Date: 17.03.2025
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counsel for the applicants has already brought out the fact that there are ample number of vacancies available, therefore, non-availability of vacancies is not an issue in the present case.

9. *In the conspectus of the facts brought out above, we find that there is merit in the OA and thus the same is allowed. We hereby direct the respondents to proceed with offer of appointment to the applicants, if they are otherwise found eligible and suitable except for the point raised above. The respondents are also directed to grant consequential relief on notional basis to the applicants vis-a-vis their batchmates at their appropriate merit position. This exercise shall be completed by the respondents within a period of three months from the date of receipt of a certified copy of this order.*

10. *No order as to costs."*

9. Aggrieved by the said decision, the SSC, along with other petitioners, filed the present Writ Petition, being W.P. (C) No. 11322/2023, seeking quashing of the order dated 22.02.2023. The Petitioners contend that the eligibility conditions prescribed under the CGLE Notice were binding upon all candidates and that any relaxation thereof, at a later stage, would amount an impermissible alteration of the selection process after its commencement.

10. The core issue arising for adjudication in the present case is whether the eligibility criteria prescribed in the CGLE Notice can override the statutory RRs, 2019 and whether the CGLE Notice imposes an additional qualification beyond the RRs.

11. Mr. Vijay Joshi, learned Counsel appearing on behalf of the petitioner argues that this three-year requirement is essential, considering the nature of duties assigned to a SIG-II. Since the role of SIG-II involves statistical analysis, studying Statistics for all three



years is essential to perform the job effectively. The petitioners rely on multiple judgments, including *Dhananjay Malik v. State of Uttaranchal*⁶, *Maharashtra PSC v. Sandeep Shriram Warade*⁷, *Ramesh Chandra Shah v. Anil Joshi*⁸, *Shubham Chopra v. UOI*⁹, *GNCTD v. Sachin Gupta*¹⁰, and *GNCTD v. Seema Kumari*¹¹ to argue that candidates cannot challenge eligibility criteria after participating in the selection process and that recruitment conditions must be uniformly applied. Thus, the petitioners challenge the Tribunal's order, asserting that the respondents lack the necessary qualifications for the post.

12. On the other hand, Mr. Amit Kaushik, learned Counsel for the respondents contends that principle of estoppels due to participation in the selection process does not apply where the recruitment rules have been misconstrued, relying on *Dr. (Major) Meeta Sahai v. State of Bihar*¹² and *Salam Samarjeet Singh v. High Court of Manipur*¹³. He further argues that the presence of the word “any” in the RRs must be given an expansive interpretation, as held in *Dr. Major Meeta Sahai (supra)*. Further, he submits that a Bachelor's degree in a stream with one of the stipulated subjects does not imply that the subject must be the main subject or studied in specific years, and the word “with” connotes inclusion, not exclusion, as affirmed in *Mamta A Ghodasara v. State of Gujarat*¹⁴ and *Neera Pal v. Central Warehousing*

⁶ (2008)4 SCC 171

⁷ (2019) 6 SCC 362

⁸ (2013)11 SCC 309

⁹ (2023) SCC OnLine Del 7660

¹⁰ (2013) SCC OnLine Del 3045

¹¹ (2023) SCC OnLine Del 4987

¹² (2019) 20 SCC 17

¹³ 2024 SCC OnLine SC 2316

¹⁴ 2011 SCC OnLine Guj 1245



Corporation¹⁵. It is further contended that the eligibility of a candidate must be judged strictly on the prescribed essential qualifications (EQs) in the RRs and not on the basis of job requirements, as reiterated in *Varun Aneja v. Union of India*¹⁶. Lastly, the Respondents argue that where vacancies exist, the State cannot arbitrarily deny appointment to a candidate who falls within the zone of consideration, as upheld in *Tej Prakash Pathak v. Rajasthan High Court*¹⁷. Hence, the impugned order of the CAT merits no interference, and the writ petition deserves to be dismissed.

13. At this stage, it becomes imperative to examine whether the CGLE Notice supplements or contradicts the RRs. The Courts have consistently held that where statutory rules are silent on a particular aspect, executive instructions may be issued to supplement the rules, provided they do not override or contradict them. In *Govt. of NCT of Delhi v. Sachin Gupta & Ors*¹⁸, it was held that:

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“It is settled legal position that when the statutory rules are silent on any point the Government can fill up gaps and supplement rules by issuing executive instructions.”

[emphasis supplied]

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14. On a bare reading of the afore-noted extract(s) of the Recruitment Rules existing in the year 2019 i.e. when the advertisement for appointment to the post of SIG-II was issued in the present case, it is evident that the minimum essential educational

¹⁵ 2018 DHC7958

¹⁶ 2024:DHC:8512-DB

¹⁷ 2024 SCC OnLine SC 3184



qualification stipulated for appointment to the said post was Bachelor's degree in any subject with Statistics as one of the subjects from a recognised University or Institute. Thus, the emphasis is made on statistic subject.

15. Subsequently, on 22.10.2019, CGLE Notice was issued, elaborating/explaining on the educational qualification required for the post of SIG-II. The CGLE Notice clarified that the candidates must have studied Statistics as a Subject in all the three years of the graduation course, emphasising that studying Statistics for three years would provide requisite depth and understanding of the statistical concepts, methods and tools. These skills were deemed essential for effective data collection and investigation, which are integral to the role.

16. It is imperative to analyse the nature of the work and responsibilities associated with the post of SIG-II, as the prescribed educational qualifications must be viewed in the context of the job profile. The SIG-II functions under the Registrar General of India, headed by the Ministry of Home Affairs. The role entails involvement in various surveys and data collection processes, including but not limited to the Census of India, Sample Registration System, Civil Registration System, National Population Register, and Socio-Economic & Caste Census. The fundamental duties of a SIG-II revolve around statistical data collection, processing, and analysing, thereby necessitating a strong foundational understanding of statistical methodology.



17. The study of statistics for only one year may not equip a candidate with the requisite depth of understanding in statistical concepts, methods, and tools, which are indispensable for effective data analysis and investigation. A comprehensive grasp of statistical principles is essential to effectively discharge the functions associated with the post. In this context, the CGLE Notice does not contravene the RRs but rather serves to clarify their intent and application, ensuring that candidates possess the necessary academic foundation of the role. It is observed that in certain cases, a rigid reading of eligibility conditions would deprive meritorious candidates from consideration. A purposive interpretation must be adopted to ensure fairness in selection. (Reliance placed on *Sachin Gupta (supra)*).

18. In view of the forgoing, the requirement that a candidate must have studied Statistics in all three years of graduation is intrinsically linked to the nature and functions of the post. The clarification provided in the CGLE Notice does not introduce a new eligibility criterion but merely elucidates the intent and rationale underlying the existing educational qualification requirement. Accordingly, the stipulation does not suffer from any arbitrariness or illegality.

19. Another significant factor warranting judicial scrutiny is the conduct of the respondents in the present case. The respondents, having been fully aware of the eligibility criteria stipulated in the advertisement, applied for the examination, successfully cleared Tier-I, II and III. However, it was only at the stage of document verification that their candidature was rejected for failing to meet the



requisite essential qualifications. This unequivocally establishes that the respondents were conscious of the essential qualifications prescribed for the post from the very outset and proceeded with the recruitment process with full knowledge of the stipulated conditions. Reliance is placed upon the judgment of **Ramesh Chandra Shah v. Anil Joshi**¹⁹. The relevant paragraphs of the judgment are reproduced below:

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“21. In Om Prakash Shukla v. Akhilesh Kumar Shukla [1986 Supp SCC 285 : 1986 SCC (L&S) 644] , a three-Judge Bench ruled that when the petitioner appeared in the examination without protest, he was not entitled to challenge the result of the examination. The same view was reiterated in Madan Lal v. State of J&K [(1995) 3 SCC 486 : 1995 SCC (L&S) 712 : (1995) 29 ATC 603] in the following words: (SCC p. 493, para 9)

9. ... The petitioners also appeared at the oral interview conducted by the Members concerned of the Commission who interviewed the petitioners as well as the contesting respondents concerned. Thus the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted. In Om Prakash Shukla v. Akhilesh Kumar Shukla [1986 Supp SCC 285 : 1986 SCC (L&S) 644] it has been clearly laid down by a Bench of three learned Judges of this Court that when the petitioner appeared at the examination without protest and when he found that he would not succeed in examination he filed a petition challenging the said examination, the High Court should not have granted any relief to such a petitioner.”

23. The doctrine of waiver was also invoked in Vijendra Kumar Verma v. Public Service Commission [(2011) 1 SCC 150 : (2011) 1 SCC (L&S) 21] and it was held: (SCC p. 156, para 24)

¹⁹ (2013) 11 SCC 309



“24. When the list of successful candidates in the written examination was published in such notification itself, it was also made clear that the knowledge of the candidates with regard to basic knowledge of computer operation would be tested at the time of interview for which knowledge of Microsoft Operating System and Microsoft Office operation would be essential. In the call letter also which was sent to the appellant at the time of calling him for interview, the aforesaid criteria was reiterated and spelt out. Therefore, no minimum benchmark or a new procedure was ever introduced during the midstream of the selection process. All the candidates knew the requirements of the selection process and were also fully aware that they must possess the basic knowledge of computer operation meaning thereby Microsoft Operating System and Microsoft Office operation. Knowing the said criteria, the appellant also appeared in the interview, faced the questions from the expert of computer application and has taken a chance and opportunity therein without any protest at any stage and now cannot turn back to state that the aforesaid procedure adopted was wrong and without jurisdiction.”

24. In view of the propositions laid down in the abovenoted judgments, it must be held that by having taken part in the process of selection with full knowledge that the recruitment was being made under the General Rules, the respondents had waived their right to question the advertisement or the methodology adopted by the Board for making selection and the learned Single Judge and the Division Bench of the High Court committed grave error by entertaining the grievance made by the respondents.”

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20. Having participated in the selection process without protest, the respondents cannot now seek exemption from compliance with the prescribed qualifications. If they had any grievance regarding the eligibility conditions laid down in the advertisement, the appropriate course of action would have been to challenge the same at the relevant stage, rather than participating in the recruitment process and raising objections only upon being declared ineligible. The Hon’ble Supreme Court has consistently held that a candidate who voluntarily participates in a selection process without raising objections at the



relevant stage cannot subsequently challenge the eligibility criteria upon being unsuccessful or disqualified.

21. In *Dhananjay Malik & Ors.v. State of Uttaranchal & Ors.*²⁰, the Supreme Court held:

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“7. It is not disputed that the respondent-writ petitioners herein participated in the process of selection knowing fully well that the educational qualification was clearly indicated in the advertisement itself as BPE or graduate with diploma in Physical Education. Having unsuccessfully participated in the process of selection without any demur they are estopped from challenging the selection criterion inter alia that the advertisement and selection with regard to requisite educational qualifications were contrary to the Rules.”

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22. The principle of estoppel applies squarely in the present case. The respondents, having acquiesced to the eligibility conditions, cannot now challenge the same after failing to meet the prescribed criteria during document verification. Their failure to raise any objection before participating in the examination constitutes a waiver of their right to challenge the advertisement at a later stage.

23. Accordingly, the contention that the CGLE Notice imposed an additional qualification beyond the RRs is wholly untenable. The respondents were fully aware of the prescribed requirements and yet failed to challenge them at the appropriate time. The RRs, read with the CGLE Notice, form a cohesive framework, ensuring that only those candidates possessing the requisite depth of knowledge in Statistics are selected for the post of SIG-II.



24. Hence, this Court finds no infirmity in the eligibility conditions prescribed in the CGLE Notice, and the impugned order of the Tribunal cannot be sustained and is liable to be set aside. Thus, the present writ petition is allowed, no orders as to costs.

AJAY DIGPAUL, J.

C. HARI SHANKAR, J.

MARCH 17, 2025/ssc

Click here to check corrigendum, if any