

(2024) 11 CAT CK 0028

Central Administrative Tribunal Principal Bench, New Delhi

Case No: Original Application No. 1924 Of 2016

Shyam Sundar Meena

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision: Nov. 29, 2024

Hon'ble Judges: Harvinder Kaur Oberoi, Member (J); Dr. Sumeet Jerath, Member (A)

Bench: Division Bench

Advocate: Ajesh Luthra, R K Sharma

Final Decision: Dismissed

Judgement

Harvinder Kaur Oberoi, Member (J)

1. Aggrieved by the cancellation of the candidature of the applicant for the post of Accountant in the office of Accountant General (A&E) Gujarat,

Ahmedabad Branch through Combined Graduate Level Examination-2013 by the respondents, the applicant has filed the present OA.

2. Briefly stated, the applicant in pursuance to the employment notice issued by the Staff Selection Commission to fill up various posts in different

ministries and organizations of the Govt. of India by way of CGLE-2013, being fully eligible, applied and participated in the selection process. The

closing date of the application was 15.02.2013. The applicant had appeared in the Tier-I examination on 21.04.2013 and Tier-II was held on

29.09.2013 wherein also the applicant had appeared. However, due to mass irregularities and leakage of question papers nationwide, both Tier-I and

Tier-II of the said selection process were scrapped and the examination was re-scheduled. The re-examination for Tier-I of CGLE-2013 was

conducted on 27.04.2014. The Tier-II was conducted on 21.09.2014 and the results of the re-examination were declared on 31.10.2014 whereby the applicant was declared to have obtained 341.25 marks. The applicant was subjected to interview on 28.01.2015 and then he was directed to appear for the Computer Proficiency Test (CPT), which was qualifying in nature for the post of Assistant in CSS and DEST for Tax Assistant. The final results were declared on 12.03.2015. The applicant was declared selected for the post of Accountant and was allocated the office of Accountant General (A&E) Gujarat, Ahmedabad Branch. Vide letter dated 10.09.2015, the applicant was required to submit his Attestation Form, Identity Certificate and Character Certificate. He submitted the same also within time. It is pertinent to mention here that while this process under CGLE-2013 was continuing, the applicant had been participating in various other competitive examinations conducted by the same recruiting agency i.e. SSC. He had also participated in the competitive examinations prior to CGLE-2013. In one such examination conducted for recruitment to the post of Sub-Inspector in CPO, Assistant Sub-Inspector in CISF and Intelligence Officers in NCB Examination " 2011, the applicant had applied and participated. Herein the SSC had conducted this examination and results were declared in 2013. The SSC alleged malpractices against the applicant in this examination and the applicant was issued Show Cause Notices dated 06.05.2013 and 31.05.2013. The applicant submitted his reply to the said Show Cause Notices, however, the SSC on consideration of the same, proceeded to issue an order dated 24/30.12.2013, cancelling the applicant's candidature in that exam and also ordering the debarment from appearing in the Commission's examination for a period of 5 years.

3. Learned counsel for the applicant submitted that the SSC had issued Show Cause Notices and debarment orders against various other candidates.

Those candidates had challenged the same before the Tribunal and in OA No 2322/2013, 2320/2013 and 2321/2013. The Show Cause Notices and the orders passed by the SSC were quashed and set aside. The applicant, however, did not challenge the Show Cause Notices and the debarment order.

Thus, on the operation of the debarment order, the applicant's candidature has been cancelled in the subsequent examination i.e. CGLE-2013.

4. Learned counsel mainly argues that the debarment order is effective from 24.12.2013 to 23.12.2018. The CGLE-2013 notification was issued in January, 2013. The closing date was February, 2013 and the applicant had applied within the cut off date, much before the issuance of the debarment order dated 24/30.12.2013. As such, the debarment order which debars the applicant from appearing in any of the examinations to be held between 24.12.2013 to 23.12.2018, cannot be made applicable retrospectively to the CGLE-2013 which was initiated in January, 2013.

5. The respondents on issuance of notice, have filed their counter affidavit. In the counter affidavit filed on behalf of the SSC, it has been stated as under :

10. That the Applicant despite knowing the facts of his said debarment from SSC Recruitment Exam since 24.12.2013 continued to take part in the selection process of Combined Graduate Level Exam, 2013 and present himself for Interview on 28.01.2015 whereon his certificates/documents were verified by the Answering Respondent. All the candidates including the Applicant had to submit an Undertaking wherein he/she has to declare that he/she had not been debarred in any of the examinations previously conducted by SSC, UPSC and other government recruiting agencies.

11. That the interview of the Applicant was held on 28.01.2015 after a period of more than one year from the date of his debarment i.e.

24.12.2013. Participation of the Applicant in the selection process of CGL Exam, 2013 in the year 2015 despite his debarment from SSC Exams since 24.12.2013 was, thus, completely invalid and of malafide intention to mislead the Commission and to hide his facts of debarment in previous Exam.

12. *****

13. That as per provisions contained in Notice of Combined Graduate Level Exam 2013 it was clearly indicated to all the Applicants that "Candidature will be cancelled if any information or claim is not found substantial when the scrutiny of documents is undertaken by the Commission after Tier-II of the Examination. Commission's decision shall be final in this regard."

6. The respondents' argument is that once the applicant had been debarred, he ought not to have participated in CGLE-2013. He had participated at his own risk. As far as they are concerned, they have rightly cancelled his candidature.

7. Learned counsel for the respondents has raised no other argument other than this.

8. We have heard the parties and perused the records. The contention of the applicant in short is that the steps of the selection process pursuant to the notification of CGLE-2013, issued in January, 2013, shall be relatable to the date when the notification was issued. The applicant suffered a debarment which was operable, specifically from 24.12.2013 to 23.12.2018. The debarment order cannot therefore be read retrospectively so as to have the effect of debarring the applicant from appearing in the selection process of CGLE-2013.

9. On the other hand, the respondents have argued that the applicant was fully aware of his debarment at the time of his interview and while appearing in Tier-I and Tier-II re-examination held in 2014. The applicant being debarred from appearing in the examinations conducted by the SSC cannot be allowed/offered any appointment based on his success in CGLE-2013.

10. During arguments, we needed to look at the CGLE-2013 notification, annexed with the OA. Vide para 12 of the said notification, mode of selection has been given in detail, it has been stated as under :

Success in the examination confers no right of appointment unless Government is satisfied after such enquiry as may be considered necessary that the candidate is suitable in all respects of appointment to the service/post.

NOTE ; The candidates applying for the examination should ensure that they fulfill all the eligibility conditions for admission to the examination. Their admission at all stages of the examination will be purely provisional, subject to their satisfying the prescribed eligibility conditions. If, on verification, at any time before or after the written examination and interview, it is found that they do not fulfill any of the eligibility conditions, their candidature for the examination will be cancelled by the Commission.

11. Further in para 17 of the said notification under the heading "Action against candidates found guilty of misconduct" clause (xiii) states as

under :

"(xiii) Candidature can also be cancelled at any stage of the recruitment for any other ground which the Commission considers to be

sufficient cause for cancellation of candidature."

12. Undeniably, the debarment notice was in operation during the period the applicant appeared for CGLE-2013 Tier-I and Tier-II re-examination and

the Interview. The applicant was aware that he had been debarred, however, he still took the risk of appearing at such stages. It is at the time of the

interview only that it came to light that he had been debarred. As such, the respondents have rightly rejected his candidature and issued the impugned

order.

13. We also note that the notified warning as enumerated above, has been mentioned in the CGLE-2013 notification itself. As such, the applicant

cannot raise the plea of not being put to notice or warning. Further, we draw support from the decision of the Hon^{ble} Supreme Court in Divya vs

Union of India WP (Civil) No. 724/2023 to state that the terms and conditions of the examination notification are final and binding. It is almost an

admitted position that once the terms and conditions have been set or the rules governing the selection process notified, those conditions cannot

ordinarily be changed.

14. The debarment notice dated 24/30.12.2013 and Show Cause Notices dated 06.05.2013 and 31.05.2013 have become final since the applicant did

not challenge them at the relevant point of time. Therefore, there is no hindrance on its operation. Accordingly, the OA is dismissed.

15. Pending MA, if any, stands disposed of accordingly. No costs.