

Satish Kumar Vs. Union Public Service Commission and Anr.

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Court : Delhi

Decided On : Nov-28-2014

Judge : S.Ravindra Bhat

Appellant : Satish Kumar

Respondent : Union Public Service Commission and Anr.

Judgement :

§~19 & 23. * IN THE HIGH COURT OF DELHI AT NEW DELHI + % Date of Decision:

28. 11.2014 W.P.(C) 8319/2014 & CM APPL. 19276-19280/2014 SATISH KUMAR Through: Petitioner Mr. Amit S Chadha, Sr. Adv. with Mr. Mohit Bakshi, Advocate versus UNION PUBLIC SERVICES COMMISSION & ANR.... Respondent Through: Mr. Kirtiman Singh, CGSC with Mr. Waize Ali Noor, Advocate Mr. Naresh Kaushik, Ms. Aditi Gupta and Ms. Amita Kalkal Chaudhary, Adv. for UPSC % W.P.(C) 8373/2014 & CM APPL. 19386-19389/2014 RITWIK RAJ SAXENA Through: Petitioner Mr. Debesh Panda, Ms. Amrita Panda and Ms. Shweta Sharma, Advocates versus UNION PUBLIC SERVICE COMMISSION & ANR..... Respondent Through: Mr. Arun Bhardwaj, CGSC Mr. Naresh Kaushik Ms. Aditi Gupta and Ms. Amita Kalkal Chaudhary, Adv. for UPSC CORAM: HON'BLE MR. JUSTICE S. RAVINDRA BHAT HON'BLE MR. JUSTICE VIPIN SANGHI S. RAVINDRA BHAT, J.

(OPEN COURT) 1. These petitioners claim to be aggrieved by a common order of the Central Administrative Tribunal (CAT/ Tribunal) dated 21.11.2014. The petitioners had questioned the rejection of their candidature for the Civil Services Examination, 2014 (CSE2014). The CAT, after considering the submissions of the parties, rejected the complaint that the respondents had adopted an arbitrary method for accepting forms, and that the rejection of the petitioners candidature was unlawful.

2. The common case set up by the petitioners is that they applied for the CSE2014 and uploaded their forms online by filling the prescribed form on the website www.upsconline.nic.in on different dates before the last date for submission, i.e. 30.06.2014.

3. It is not disputed that the petitioners had submitted Part-1 of the online form which comprised essential particulars such as name, fathers name, educational qualification, centre for preliminary CSE etc. It is also not disputed that the process involved two part online registration (Part I and Part II). At the end of the Part I registration, a Registration ID was generated and communicated, which was required to be filled in the course of Part II registration. The petitioners urge that they had obtained the registration ID by successfully filling and submitting the Part I registration form online. Thereafter, they had even uploaded their respective photographs and their scanned signatures in the Part II registration process, and furthermore, made online payment through debit/credit cards.

4. The controversy with which the CAT was presented with was whether the applicant/petitioners had failed to complete and submit the Part II registration form, or whether the petitioners were right in contending that there was a technical defect experienced by them while filling up and submitting the Part II registration form. The petitioners claimed that, as far as they were concerned, after they made the online payment, the webpage merely directed them to continue, and led them to the home page, instead of directing them to the page in which they had to fill up their choice of the examination centre, and finally click the submit button.

5. The UPSC contended that none of the petitioners actually submitted their Part II registration forms. If the Part-II had been incompletely filled up for example, the

relevant Centre had not been indicated, but the Part II registration form had been submitted, the applicant candidate would have been intimated that the form was not filled up correctly or that it was incomplete. However, since the Part II registration form was not submitted, there was no question of considering the petitioners as candidates. The CAT rejected the petitioners contentions which were primarily based upon the submission that the webpage which they had to deal with after making online payment did not contain the submit button, but merely asked them to continue, and that they were under the bona fide belief that they had, in fact, submitted the form.

6. It was contended on behalf of the petitioners that the CAT fell into error in holding that the petitioners did not, in fact, submit the Part II form. It was submitted in this regard, that considering that the online payment led to the debiting of their accounts, and further that the webpage which each one of them saw thereafter nowhere indicated the submit button, but merely asked them to continue they could not be expected to assume that their forms had not been filled or submitted.

7. Mr. Debesh Panda appearing in W.P.(C.) No.8373/2014, in addition, submitted that the kind of webpage which the petitioner contemporaneously saw-while filling the Part II registration form, was radically different from the kind of webpage that was shown to the CAT by the respondents. In this regard, he relied upon the written submissions filed before the CAT on 20.11.2014, and contended that the screen shot of the webpage-relied upon by UPSC produced at page 130 was, in fact, handed across the bar on the date of hearing i.e. 17.11.2014, and consequently there was no occasion for the petitioners to respond to it, and that the CAT completely fell into error in not considering these aspects, since it had material bearing on the issues involved before it.

8. The UPSCs contentions are entirely based upon the instructions given to the candidates-both in its online application form, and the instructions made available on the website. It contends that the candidates were repeatedly warned-almost at every webpage of the Part II registration form, right from the beginning till the end, that unless the Part-II registration form is submitted, the applicant would not be considered as a candidate.

9. Learned counsel for UPSC relied upon the note of instructions to applicants; the relevant part of it is extracted below:

Before filling up Part-II registration, you must fill Part-I registration and obtain a valid Registration-Id. Unless you have completed and successfully finally submitted Part-II of application, you will NOT be treated as a candidate.

10. It is also contended that the instructions contain various screen shots of the form which could be seen by the candidates, which were to be appropriately clicked. In this regard, the relevant screen shots are as under:

2. To apply for CS(P), applicant should click on the link (UPSC ONLINE APPLICATIONS) on the website of the Commission. This will take the candidate to the <http://www.upsconline.nic.in/> OR The applicant can directly visit <http://www.upsconline.nic.in/> website to fill up the application. Screen as given will appear.

15. When an applicant clicks on I Agree button, his/her eligibility for age relaxation and other criteria is automatically checked by the system. With the correct eligibility, the system Displays the system generated unique Registration ID along with the essential identification information about the candidate viz. Name, Fathers Name, Mothers Name, DOB, Address, Examination Centre etc. opted by the candidate.

16. The applicant is also intimate that he has completed Part-I of the Registration of Online Application procedure. The applications may however note that Application would be treated as incomplete and rejected unless accompanied with Part-II Registration. Part II Registration 18. Once Part-I of the Online Application procedure is completed, an applicant has to complete the Part-II Registration for the successful Online Application Submission by clicking on the link [click here](#) under Part-II Registration on the website www.upsconline.com Part-II Registration comprise three steps 1. Uploading of Photograph and Signature 2. Fee payment (if required) 3. Examination Centre for Civil Services (Prelims) has to be chosen from the available drop down menu.

25. After uploading photo and signature in case of exempted candidate and on payments of fee by fee paid candidates, an alert SMS will be received by candidates on his/her registered mobile saying that candidature is not valid as you have not filled centre in the application. This SMS may please be ignored in case you have filled the centre details.

26. In next step, Applicant must fill in the Centre Examination for Civil Services (Prelims) and click on the submit button given at the bottom of the page.

11. It is also stated that the UPSC received more than 9,45,000 complete forms, and that the petitioners' contentions, which are entirely based on disputed and unverified facts, should not be accepted.

12. The exact controversy in this case boils down to whether the online application form, which the UPSC claims were never received by it, were not submitted on account of any omission on the part of the petitioners, or on account of technical error or software defect attributable to UPSC. The petitioners' contention in this regard is that each one of them had filled the Part II registration form up to the point when the scanned photographs and scanned signatures were uploaded and online payment of fee made, at which stage, instead of the concerned page dealing with centre options and the option to submit the form, they were asked to proceed or continue, which took them to the home page. The UPSC, on the other hand, as aforesaid, contended that this submission of the petitioners cannot be accepted, because more than 945,000 successfully completed applications were received by it.

13. As far as the petitioners' submission, with regard to what they saw on the webpage after filling up certain parts of the Part-II form, is concerned, learned counsel stressed that a page of the following kind, in fact, appeared on the screen:

[Part-II Registration for Registration Id:

11430. 87582]. Transaction Acknowledgement Your fee payment has been successfully completed with the following details: Transaction Status : Success
Registration-Id:

11430. 87500 Transaction-Id:

11406. 541632821 Mode of payment: Credit/Debit Card Fee Amount (in Rs.) 100
Transaction Date:

25. 6.2014 Transaction Desc : Transaction successful Note1:To print the Transaction Acknowledgment click Print Icon. Note 2: To complete the Application Form Submission click Continue.

14. On the other hand, learned counsel for the UPSC submitted that, the petitioners failed to fill up the examination centers and thereafter to press the submit button-which means that the forms itself was neither complete nor submitted. The mere communication of the registration ID-at the end of successful completion of the Part I submission form and deposit of fee online, could not be treated as successful submission of the Part II registration form in the face of repeated and clear instructions contained in the instructions to the candidates, as well as, in the Part II registration form itself.

15. The online instructions are fairly clear in that, repeatedly the UPSC had indicated that non submission of Part-II form in totality (finally submitted Part-II application), would result in an applicant not being treated as a candidate. The controversy as to whether the petitioner was confronted with the webpage different from what was shown before the CAT can be also viewed from the perspective that every applicant was informed independently, at every stage not less than on four or five occasions (at the end of the forms) that the Part-II of the application had to be finally submitted. Pertinently, at the end of Part I registration form itself, the candidates were informed vide Note-2 that, application will be treated as incomplete/rejected unless accompanied by the Part II Registration which again consist of two parts filling up, uploading Photograph & Signature, Payment details of Examination Fee (where applicable) and Examination Center. For payment of exam fees, examination center, upload of photograph and signature proceed to Part II Registration.

It is not the petitioners case that they did not receive the registration ID at the end of submission of part I registration form and that they did not see the aforesaid

Note-2. Consequently, the petitioners were well aware that while filling up Part II registration form, they had to fill up examination center details. If, according to the petitioners, they did not receive on their computer screens the option to fill up the examination center (which page also contained submit button), then, they should have been alerted as the examination center had to be specified by the candidates. The petitioners apparently acted casually, if not negligently, when they failed to even notice that they did not come across a webpage requiring them to submit their option for the examination center-if their story is to be believed.

16. Furthermore, the instructions also indicated (in Note-II) that in case of facing any difficulty in applying of online application, please inform with details at email: usoapc-upsc@nic.in. The advertisement dated 31.05.2014 in Clause 6 clearly indicated the telephone numbers and felicitation centres for guidance/information/clarification regarding their applications. The petitioners, therefore, were made aware, in advance, what they were expected to do, and in case they really faced any difficulty as is being alleged, it was open to them to either contact the UPSC through email or on telephone. It is not their case that they did so. In these circumstances, the factual matrix of the controversy which they seek to raise before this Court after having been unsuccessful in their endeavour before the CAT, and; having not been able to prove, much less establish, that they had successfully finally submitted Part-II of the application, cannot be gone into. The impugned order suffers from no infirmity.

17. The writ petitions are, accordingly, dismissed. S. RAVINDRA BHAT, J VIPIN SANGHI, J NOVEMBER 28 2014 sr

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