

(2021) 01 DEL CK 0279

In the Delhi High Court

Case No : Civil Writ Petition No. 1178 Of 2021

Ritu Garg And Ors

APPELLANT

Vs

Union Of India & Anr

RESPONDENT

Date of Decision : 29-01-2021

Acts Referred:

Constitution Of India, 1950 — Article 14, 21, 227
Administrative Tribunals Act, 1985 — Section 19

Citation : (2021) 01 DEL CK 0279

Hon'ble Judges : Rajiv Sahai Endlaw, J;Sanjeev Narula, J

Bench : Division Bench

Advocate : Rajshekhar Rao, Ajay Dignpaul, Kamal R. Dignpaul

Final Decision : Dismissed

Judgement

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Sanjeev Narula, J",,,,

CM APPL. Nos. 3318/2021 & 3319/2021 (for exemption),,,,

1. Exemption allowed, subject to just exceptions.",,,,

2. The applications stand disposed of.,,,,

W.P.(C) 1178/2021 & CM APPL. 3317/2021 (for ad-interim ex parte relief),,,,

3. The present petition has been listed before us in the post-lunch session, on urgent mentioning. The Petitioners have approached this court under",,,,

Article 227 of the Constitution of India, impugning the final order dated 28th January, 2021 passed by the Principal Bench of the Central",,,,

Administrative Tribunal, New Delhi in O.A./100/122/2021 dismissing the Original Application (hereinafter referred to as "O.A.") filed by them.",,,,

First and foremost, we may note that the transcript of the impugned order is not

on record and the present petition has been filed stating that, as noted",,,
by the counsel, the Tribunal has pronounced the order orally and dismissed the O.A. filed by the Petitioners.",,,

4. Briefly stated, the facts leading to the filing of the present petition are as follows. The Department of Personnel and Administrative Reforms has",,,

constituted a Subordinate Services Commission, subsequently re-designated as the Staff Selection Commission (hereinafter referred to as",,,

â??SSCâ??) to make recruitment to various class III (now Group â??Câ?) posts in various Ministries/Departments of the Government of India and",,,

its subordinate offices. The recruitment by the SSC for the vacant post(s) is notified for each year by way of open/public examinations for the",,,

respective years. One such examination is Combined Graduate Level Examination [hereinafter referred to as â??CGLâ?], held annually for",,,

recruitment to various posts as notified in the notice of examination for each respective year.,,,

5. The SSC issued a notification dated 29th December, 2020 for the Combined Graduate Level Examination, 2020 (hereinafter referred to as â??CGL",,,

2020â??) for filling up of various Group â??Bâ?? and Group â??Câ?? posts in different Ministries / Departments / Organizations. The schedule",,,

thereto prescribed dates for the conduct of examination in 2021. The date of age reckoning has been prescribed to be 1st January, 2021 and the last",,,

date of applying for such examination is 31st January, 2021.",,,

6. Petitioners contend that due to the non-conduct of the CGL examination in the year 2020, and the subsequent determination of age limit (by fixation",,,

of 1st January 2021 as the date of age reckoning vide notification dated 29th December, 2020) for the CGL 2020, they are being deprived of their last",,,

opportunity to appear for the said examination, on account of being overage on the said date, and thus, rendered ineligible to appear for the same.",,,

7. In this background, the petitioners first filed a Writ Petition (Civil) No.458/2021 before this Court inter alia seeking urgent reliefs as well as seeking",,,

relaxation in the age reckoning as per the notification dated 29th December, 2020. The said petition was however withdrawn, with liberty to avail the",,,

alternate remedy by approaching the Central Administrative Tribunal, New Delhi under Section 19 of the Administrative Tribunals Act, 1985.",,,

8. Accordingly, the Petitioners filed the afore-stated O.A. before the Tribunal and challenged the CGL 2020, to the extent it fixed the age reckoning",,,

date as 1st January 2021 to determine the eligibility of the aspirants, on the ground that it is unconstitutional, discriminatory, arbitrary, illegal and",,,

violative of Article 14 and 21 of the Constitution of India. The Tribunal has dismissed the O.A. vide the order impugned in the present petition.,,,

Aggrieved with the dismissal, the Petitioners by way of present petition seek a writ of mandamus directing the Respondents for fixing the date of age",,,

reckoning relatable to the year 2020.,,,

9. Mr. Rajshekhar Rao, learned counsel for the Petitioners contends that the date of reckoning of age for the CGL 2020, being of the successive year",,,

(i.e. 1st January, 2021) is discriminatory, arbitrary, illegal and unconstitutional. The date of reckoning of age ought to be 1st January, 2020 as per the",,,

past pattern followed by Respondent No. 2. He contends that from 2017 onwards, CGL notifications have suffered administrative delays and",,,

irregularities, resulting in a cascading effect impairing the normal conduct of examination and disturbing the schedule and pattern thereof. He submits",,,

that on account of the aforesaid, there has been disorientation and distortion of the process of recruitment. The action for notifying the date of age",,,

reckoning for CGL 2020 as 1st January, 2021 is not in good faith and does not serve any public purpose as it deprives a large number of aspirants of",,,

their last opportunity to appear for the said open/public examination, who would otherwise have been eligible, had the exam been conducted as per the",,,

long settled pattern and in accordance with the applicable OM of DOPT dated 14th July, 1988.",,,

10. Although, we do not have the benefit of knowing the views of the learned Tribunal as the transcript of the impugned order dated 28th January",,,

2021 is still awaited, we have heard Mr. Rajshekhar Rao considering the urgency pressed by him that the last date for submitting the application for",,,

CGL expires on 31st January, 2021.",,,

11. We have carefully perused the record and given due consideration to the contentions urged by Mr. Rao, however we are unable to accede to his",,,

contention. The controversy lies in narrow compass, as the facts are not in dispute. In terms of the notification, the eligible age has to be reckoned",,,

with reference to the date of 1st January, 2021. This reckoning date apparently

deprives the petitioner of the last opportunity to appear for the said",,,
public examination on account of being overage. However in our view, this would not ipso facto entail that we should interfere in such a matter. The",,,
terms and conditions of the recruitment, including the age limit are to be fixed by the respondents. It is well settled in law that the employer is at liberty",,,
to fix the qualifications as well as the age limit for the purpose of recruitment, and merely the fact that the same would cause prejudice to some",,,
participants, cannot be a reason for the Court to interfere and set a different age limit.",,,

12. PetitionersÂ stronglyÂ reliedÂ uponÂ theÂ OfficeÂ MemorandumÂ No. AB.14017/70/87-Estt. (RR) dated 14th July, 1988 issued by the",,,

Government of India, Ministry of Personnel, P.G and Pensions, Department of Personnel and Training (hereinafter referred to as "OM") which",,,

sets out the crucial date for determining the age limits for competitive examination conducted in parts by UPSC/SSC. According to the instructions",,,

contained in para 2 of the said OM, the crucial date for determining the age limits for competitive examinations held for recruitment by UPSC/SSC",,,

etc. in the first half of the year, is the first date of January of the year in which the examination is held; and if the examination is held in the second",,,

half of the year, the crucial date will be the first day of August of the year in which the examination is held. Petitioners contend that the advertisement",,,

of the CGL 2020 was due to be issued on 15th September, 2020 as per the tentative timetable published by the Respondents, and therefore the",,,

reckoning date should be relatable to the year 2020.,,,

13. The aforesaid OM dated 14th July, 1988, in our view is of no assistance them, in as much as it nowhere prescribes that the age reckoning can be",,,

set with reference to the year in which the vacancies were notified, for recruitment through SSC. The said OM clarified the doubts expressed with",,,

respect to the crucial date for determining the age limit in respect of following examinations in the following terms:,,,

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Exam A, 1-3-88, 25-8-88, As on 1-8-88

Exam B, 1-9-88, 1-3-89, As on 1-1-89

Exam C, 1-3-88, 1-5-88, As on 1-1-88