

Court No. - 5

Case :- SERVICE SINGLE No. - 91 of 2013

Petitioner :- Kendra Kunwar

Respondent :- State Of U.P. Thru Prin.Secy.Home Civil Sectt.Lko. & Others

Petitioner Counsel :- Amrendra Nath Tripathi

Respondent Counsel :- C.S.C.

Hon'ble Ritu Raj Awasthi,J.

Heard learned counsel for petitioner as well as learned Additional Chief Standing Counsel and perused the record.

The writ petition has been filed seeking direction to opposite parties to declare the petitioner passed in the preliminary written test held on 11.12.2011 for the post of Sub Inspector (Civil Police) and Platoon Commander under direct recruitment.

Learned counsel for petitioner submits that as per Uttar Pradesh Sub Inspector and Inspector (Civil Police) Service Rules, 2008 particularly Rule 15(a)(ii)- it is provided that a separate booklet shall be attached with the application form containing the information regarding educational qualification, age, minimum qualifying standard for each category of physical standard test, physical efficiency test, medical fitness, minimum qualifying marks for written examination subject wise, copy of the OMR sheet for practice and other important guidelines. As per Rule 15(b) it is provided that a candidate who are declared successful in the physical standard test under clause (c) shall be required to appear in objective type/preliminary written test of qualifying nature. This test shall carry 200 marks.

Submission is that the booklet i.e. Combined Examination, 2011 instruction booklet provided that preliminary written examination would consists three sections of General Knowledge -100 marks, Numerical Aptitude Test-50 marks and Reasoning Test-50 marks. It further provided that a candidate shall secure minimum 50 percent marks in the written test for being declared successful, as such, there was no requirement of securing minimum 40 percent marks in each and individual section of the preliminary written test, as such condition was not prescribed under the advertisement or under instructions provided

through the aforesaid booklet.

The opposite parties in most arbitrary and illegal manner at the time of examination i.e. with the question paper, informed the candidates that they will have to secure at least 40 percent marks in each section of the written examination and the aggregate shall be at least 50 percent marks for qualifying the preliminary written test. Imposition of such condition of securing minimum of 40 percent in each and individual sections of the written test was arbitrary, wrong and illegal.

Learned Additional Chief Standing Counsel on the basis of instructions submits that it is totally wrong to say that petitioner was not knowing that he has to secure at least 40 percent marks in each section/part of the written examination as vide notice/release dated 24.11.2011 the candidates were informed that they are required to secure minimum 40 percent marks in each section/part of the preliminary written test and the aggregate shall be 50 percent for qualifying the written examination. He further informs that the said notice/release dated 24.11.2011 was published in various national newspapers of wide circulation. The examination was held on 11.12.2011. The petitioner has filed the writ petition after declaration of result when he has come to know that he is unsuccessful, the writ petition as such is not maintainable.

In support of his submissions, learned Additional Chief Standing Counsel has placed the judgment of this Court dated 7.12.2012 passed in ***Writ Petition No. 7088 (SS) of 2012 (Radha Mohan Yadav Vs. State of U.P. and others)*** wherein the writ petition was dismissed on the ground that writ petition on behalf of unsuccessful candidates who had participated in the selection process knowing fully well the terms and conditions therein is not entertainable.

It is submitted that the result of the examination held on 11.12.2011 has already been declared.

I have considered the submissions made by parties counsel.

The petitioner had applied for appointment on the post of Sub Inspector (Civil Police) for which Combined Preliminary Written Test was held on 11.12.2011, as per Uttar Pradesh Sub Inspector and Inspector (Civil Police) Service Rules, 2008. The petitioner had appeared in the said preliminary written test. It is totally wrong to say that petitioner was not knowing about the conditions that he is required to secure 40 percent

marks in each section/part of the preliminary written examination as the notice/release dated 24.11.2011 issued by the opposite parties had indicated that each candidate was required to secure at least 40 percent marks in each section/part of the preliminary written test and the aggregate marks shall be at least 50 percent marks for qualifying the written test. The said notice/release was issued/published in newspapers much prior to the written examination which was held on 11.12.2011, as such, petitioner was supposed to know the said conditions and knowing fully well the said conditions he had appeared in the written examination and after being declared unsuccessful has approached the Court by filing the instant writ petition.

It is settled legal position that a candidate after participating in the selection process and being declared unsuccessful has no right to challenge the procedure of selection after the declaration of result. This Court vide order dated 7.12.2012 passed in Writ Petition No. 7088 (SS) of 2012 while dismissing the writ petition has made observations which on reproduction reads as under:

"It is to be observed that in the present writ petition the petitioner has raised grievance relating to the procedure adopted by opposite parties in holding written examination. The petitioner had participated in the said selection and had appeared in the written examination knowing fully well the procedure, as such, after being unsuccessful he cannot turn around and challenge the same. Moreover, I am of the considered opinion that since the selection for the post in question has been finalized and selected candidates have been already sent on training, no indulgence is required by the Court at this stage."

In this view of the matter, I am of the considered opinion that the petitioner after being declared unsuccessful in the preliminary written test has no right to challenge the procedure adopted in the said examination.

The writ petition being devoid of merit is **dismissed**.

Order Date :- 23.1.2013

Prajapati