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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No1434/99

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER(J)
HON'BLE SHRI R.K. AHOOJA, MEMBER(A)

New Delhi, this the 26th day of October, 1999

Arvinder Singh
S/o Late Shri R.S. Wadhwa
Aged 26 years
R/o C-3/58, Janakpuri
New Delhi
Presently undergoing training at
National Police Academy, HyderabadApplicant

(By Advocate: Shri Jasmeet Singh Bedi)

Versus

1. Union of India Through
The Secretary, Ministry
of Home Affairs
North Block, New Delhi
2. Secretary, Ministry of
Personnel, Public Grievances & Pensions
North Block, New Delhi
3. State of Tripura, Through
The Chief Secretary to the
Govt. of Tripura
Agartala (Tripura)
4. State of Delhi, Through
The Chief Secretary to the
Govt. of Delhi, New Delhi
5. Shri Mayank Sheel Chohan, I.P.S.
(Probationer)
Presently undergoing training at
National Police Academy, Hyderabad ...Respondents

(By Advocate: Shri V.S.R. Krishna)

O R D E R

[By Hon'ble Shri R.K. Ahooja, Member(A)]

The applicant who belongs to Delhi and was appointed to the Indian Police Service on the basis of the Civil Services Examination in 1997, is aggrieved by his allotment to the Manipur-Tripura cadre as an "outsider" instead of being allocated to the Union Territories cadre as an "insider". The case of the applicant is that there were three vacancies available in the AGMUT (Union Territories) cadre out of which one was occupied by an "insider" and two by

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"outsiders". The official respondents, however, treated the "insider" vacancy as reserved. He challenges this action on various grounds. His first contention is that ~~there can be only~~^a reservation of one vacancy for "insider", amounts to 100 per cent reservation which is contrary to the instructions on reservation and also the law declared by the Supreme Court in P.G.I. of Medical Education & Research, Chandigarh Vs. Faculty Association & Others [1998 (2) RSJ 670]. The second contention is that the reservation for SC & ST together cannot exceed 50 per cent and thus out of a total of three vacancies, there cannot be a reservation for two vacancies for SC/ST and OBC. This is contrary to law laid down by the Supreme Court in Indira Sawhney Vs. Union of India (1992 Supp (3) SCC 217). He next submits that there could not, ~~however~~^φ, be an excess over 50 per cent reservation even if one of the reservation ~~was~~^a for carry over from the earlier years. Finally, he contends that while there has to be reservation in recruitment, there can be no reservation under Article 16(1) of the Constitution in allotment to various cadres.

2. The respondents in their reply have submitted that the reservation in allocation to State cadres has stood the test of time and has also been upheld by the various judgments of the Supreme Court including Rajiv Yadav, IAS & Others^{vs. Union of India} (1994(6) SCC-38). They have also explained that for three vacancies the reservation of SC+ST comes to 0.67% which is rounded off to one and 27 per cent for the OBC comes to 0.81 which is again rounded off to one. Thus two vacancies out of three have to be reserved for the SC/ST and OBC. According to the respondents this has been done in all the State cadres where the number of vacancies available was three or five. According to the respondents,

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it is not possible to ensure exact percentage for each separate cadre due to uneven number of vacancies. They also point out that the reservation percentages have not been exceeded in the matter of recruitment to the Indian Police Service as a whole.

3. Shri Jasmeet Singh Bedi, learned counsel for the applicant pointed out in his arguments that the applicant had obtained 65th rank in the merit list of Civil Services Examination and was a topper amongst those who had been selected from Delhi. On the other hand, Respondent No.4 had the rank at 361 but had been allotted to his home cadre as an 'insider'. He submitted that even in terms of Supreme Court's judgment in Rajeev Yadvu's case, each state cadre was to be treated as a separate unit for application of the reservation rules and thus the single post could not be reserved for SC/ST. He also argued that since in every cadre at any time there are some vacancies available ~~and~~ ⁱⁿ ~~therein~~ the relief sought for by the applicant could be granted, without upsetting the rest of the allocations to State cadres.

4. We have carefully considered the above arguments but are unable to find any merit in the submissions and contentions made on behalf of the applicant. The members of the Indian Police Service have an all India service liability, even though they are allocated to separate State cadres. Under Rule 5(2) of the Indian Police Service (Cadre) Rules, 1954 the Central Govt. can with the concurrence of the State Govt. concerned transfer officers from one cadre to another cadre. It is also an admitted position that reservation percentages are applied at the time of direct recruitment to the Indian Police Service.

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The Central Govt. has adopted a "Roster System" for allocating the Scheduled Caste/Scheduled Tribe candidates. In Rajeev Yadav (supra) the Supreme Court approved of the roster system as a means of ensuring distribution of reserved candidates amongst all cadres. We also find that the number of vacancies in many cadres is not such as to lend itself to the exact percentages of reservations. The respondents in their reply have stated that ~~for~~ amongst vacancies available for the 1997 examination, there were three vacancies each in Manipur-Tripura, Rajasthan & Gujarat cadres. If in those cases also only one of the three vacancies had been reserved then for the total of 13 vacancies in the aforesaid four cadres the reservation would have been only 25 per cent, leaving necessarily a surplus in the matter of allocation with the result that some of the scheduled castes, Scheduled Tribes and OBC candidates would have been stranded without allocation or in the alternative, some other cadres would have carried more than 50 per cent reservation. Assuming that all the 20 or more State cadres had only one vacancy each then on the reasoning of the applicant there could have been no reservation whatsoever. In these circumstances the method suggested by the respondents of rounding off the fractions seems to us to be a rational and viable method for meeting such contingencies.

5. We are conscious that in the nature of things there can be no perfect system for ensuring that the reservation in each cadre on the basis of each year's examination would conform exactly to the service reservation. Nevertheless, the complex system devised by the Central Govt. has passed the test of judicial scrutiny by the three Judges Bench of the Supreme Court in Rajiv Yadav's case (supra). In that

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judgment the Supreme Court had observed that the Central Govt. is under no obligation to seek preferences from the officers concerned and the cadre rules make the Central Govt. the sole authority to allocate the members to the various cadres.

6. The very character of an All India Service demands that officers allocated to each State cadre should not only be a fair mix of "outsiders" and "insiders" but there should also be a fair distribution of 'high ranking' and "low ranking" candidates. Thus neither rank nor State create any right for allocation to any particular State cadre. The challenge by the applicant either to the rules or to the roster system or to the method adopted by the respondents in making reservations where fractions in percentages are involved cannot be allowed as the challenge is not rooted in a vested right to be allocated to one's home cadre.

7. In the result, the O.A. fails and is hereby dismissed.

No order as to costs.


(R.K. AHOOGA)
MEMBER (A)


(SMT. LAKSHMI SWAMINATHAN)
MEMBER (J)

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