

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 213/1999

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New Delhi this the 30th day of October, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri V.K. Majotra, Member (A)

Sh. Y. Syamabalasundara Vithal
S/O Shri Y. Kutumbalah,
R/O B-132, Pocket-B,
Mayur Vihar Phase-II Delhi-110091

presently posted as Asstt.
Civilian Staff Officer
Post Office DHQ, New Delhi-110011

.. Applicant

(None for the applicant)

Versus

1. Union of India through the
Secretary,
Ministry of Personnel,
Public Grievances and Pensions,
Deptt. of Personnel and Training,
North Block, New Delhi.

2. Union Public Service Commission,
through its Secretary,
Dholpur House, Shahjahan Road,
New Delhi-110011

.. Respondents

(By Advocate Sh. V.S.R. Krishna, learned
counsel through proxy counsel Shri
D.K. Srivastava)

O R D E R (ORAL)

Hon'ble Shri V.K. Majotra, Member (A)

The applicant participated in the Civil Services Examination, 1995. In terms of Rule 2 of the CSE Rules, 1995, he exercised his option and accorded higher preference to Armed Forces Headquarter Civil Services Group B (AFHQ for short) over Central Secretariat Service Group B. He was allotted to AFHQ Civil Services Group B. Formal letter of appointment was sent to him vide communication dated 6.2.1997 (Ann. 2).

The applicant has filed the present application to change his

order of preference for allotment of the Service. He has averred that the prospects of promotion in the Central Secretariat Services(CSS) are better than those in the AFHQ Civil Services. Whereas the Section Officers in the CSS are promoted upto the level of Additional Secretary and their promotion opportunities are not restricted/limited only to the post of Deputy Secretary, the promotion of officers in AFHQ Civil Services remain restricted to the post of Director. According to him such information was not mentioned in the Gazette of India published in 1994. Had this information been published in the Gazette of India, Then, the applicant would have naturally submitted his order of preference for the CSS and certainly not for AFHQ Civil Services. The applicant has sought change of order of preference from AFHQ Civil Services to CSS and direction to the respondents to allow him to join the CSS as Section Officer and that his inter-se-seniority among all other Section Officers be fixed according to the rank obtained by him at the Civil Services Examination held in the year, 1995.

2. The respondents have taken a preliminary objection that whereas the formal letter of appointment to AFHQ Civil Services on the basis of CSE Examination, 1995 was issued on 6.2.1997, the applicant has filed the present OA 18.5.99, it is barred by law of limitation. However, we find from our records that the present OA has been filed on 27.1.1999 after a gap of two years of the cause of action when the applicant was issued formal letter of appointment. The applicant has also not



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filed any application for condonation of delay in filing the OA. In the application, the applicant has^{merely} stated that the OA is within the period of limitation under Section 21 of the Administrative Tribunals Act, 1985. We are unable to agree with the contention of the applicant and the present OA is^{held to be} barred by limitation and is liable for dismissal on this ground alone.

3. The applicant has remained un-represented at the time of final hearing. We have proceeded to dispose of the matter under Rule 15 of the Central Administrative Tribunal(Procedure) Rules, 1987.

4. In the counter, the respondents have stated that the CSE Rules 1995 contain detailed instructions, guidelines and procedure with regard^{to} the conduct of the examination, allocation of candidates, particulars of services/posts, etc. The candidates intending to appear in the examination are required to go through the Notification/Rules carefully before applying for the examination. The respondents have referred to Paragraph 19(g) of the Appendix II to the Notification which reads that Officers of Grade I of CSS will be eligible for appointment to the Selection Grade of the service and to other higher administrative posts in the Central Secretariat. Attention has also been drawn to para 21(h) which states that Selection Grade Officers of the AFHQ Civil Service will be eligible for appointment to the post of Director of the Service and to other administrative post in accordance with the Rules. The respondents have therefore, stated that the allegation made by the applicant that proper information

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was not incorporated in the Rules is factually incorrect. According to the respondents the allegation made by the applicant that he relied on the information published by the respondents in the Gazette Notification and opted for AFHQ in his application in the belief that AFHQ has better promotion prospects than CSS. The respondents have stated that the applicant acted upon his self drawn conclusion and he alone is responsible for the same. The respondents have never published in the Notification that the promotion prospects of the Officers of CSS would be limited to Selection Grade only. The applicant had enough time between his first exercise of preference in the application form and the second opportunity provided under Rule 2 of the CSE Rules to alter his order of service preference but the same was not utilised by the applicant. The respondents have also stated that there is no rule in the CSE Rules which permit change of preference at this belated stage. The allocation of the successful candidates not only on the basis of the CSE 1995 but also of 1996 and 1997 have been finalised and communicated to the Cadre Controlling Authorities. As a matter of fact the allocation of successful candidates of CSE 1998 has also been finalised and is being communicated to the Cadre Controlling Authorities.

5. We have heard Sh.D.K.Srivastava, learned proxy counsel of the respondents and perused the material available on record.

6. As per Rule 2 of the CSE Rules " a candidate shall be required to indicate in his/her application form for the Main Examination his/ her order of preference for various

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services/posts for which he/she would like to be considered for appointment in case he/she is recommended for appointment by Union Public Service Commission. "No request for change in the preferences indicated by a candidate is considered under Rules unless the/the same is received in the office of the UPSC within thirty days of the date of publication of the results of the written part of the main Examination. "The candidate is advised to indicate all the services/posts in the order of preference in his/her application form. In case he/she does not give any preference for any service/posts, or does not include certain services/posts in the application form, it will be assumed that he/she has no specific preference for those services/posts and in that event he/she shall be allotted to any of the remaining services/posts in which there are vacancies after allocation of all candidates who have expressed preference for all the services/posts according to their rank."

7. The relevant portion of the provisions under Rule 18 is reproduced below:-

" Due consideration will be given at the time of making appointments on the results of the examination to the preferences expressed by a candidate for various services at the time of his application. The appointment to various services will also be governed by the Rules/Regulations in force as applicable to the respective Services at the time of appointment."

The provisions of Rule 2 and 18 thus entitle the

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candidate to indicate preferences for service in the order in which they would like to be considered at the time of allocation of service. The proviso to rule 2 provides as it then stood another chance to a candidate to make changes in his order of preferences, which was indicated by him in his application form. In our view under the Rules a candidate has two opportunities to give/change his preference for various services. We also find that the respondents had published sufficient information about future prospects among others of CSS and AFHQ Civil Service on the basis of which the applicant could have given better preference for the various services. He did not avail of the second opportunity to change his preferences. Not only that the application is barred by limitation it is also devoid of merits. OA is accordingly dismissed. No costs.

V.K. Majotra
(V.K. Majotra)
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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