

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 752/99

New Delhi : this the 12th day of May, 2000.

HON'BLE MR. S. R. ADIGE VICE CHAIRMAN (A).

HON'BLE MR. KULDIP SINGH, MEMBER (J)

A.V. Prema Nath,
S/o A. Venkatrayulu,
Probationer, Danics,
119 F, Hostel Block,
Directorate of Training,
UTCS, Viswas Nagar,
Delhi.

.....Applicant

(By Advocate: Shri B.B. Raval)

Versus

1. Secretary,
Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi - 11

2. Secretary,
Deptt. of Personnel & Training,
Ministry of Personnel,
Public Grievances & Pensions,
North Block,
New Delhi

.....Respondents

(By Advocate: Shri R.V. Sinha & Shri VSR Krishna)

ORDER

MR. S. R. ADIGE VC(A).

In this OA filed on 1.4.99 by applicant, who is orthopaedically handicapped, seeks the reliefs contained in para 8 thereof.

2. At the outset it is noticed that the reliefs prayed for are not consequential to each other and prima facie the OA is hit by Rule 10 CAT (Procedure) Rules.

3. In relief 8(i) applicant prays to be permitted to appear in the Civil Services Exam. Interview Scheduled for April-May, 1999. By interim order dated 29.4.99 respondents (UPSC) were directed to interview applicant on a purely provisional basis and keep the result of

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the interview in a sealed cover till further orders.

4. In relief 8(ii) he seeks 3% reservation of vacancies in relation to Civil Services (Main) Exam., 1998 for disabled candidates in accordance with the provisions of Section 33 Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, while in relief 8(iii) he seeks carry forward of the 3% entitlement in CS(Exam), 1998. In Relief 8(iv) he seeks allotment to any service against the 3% reservation for the disabled on the basis of the final result of the Civil Services Exam., 1997.

5. We have heard Shri Rawal for applicant and S/Shri R.V. Sinha & VSR Krishna for respondents.

6. As regards relief 8(i) we are informed during hearing that applicant was allowed to appear in the Civil Service Exam. interview pursuant to the interim order dated 29.4.99, and the results of the same kept in a sealed cover.

7. During arguments Shri Rawal stressed mainly on applicant's prayer for allotment to any service against 3% reservation for the disabled on the basis of the final result of Civil Services Exam., 1997.

8. In this connection respondent No.2 in his reply states that applicant appeared in CSE, 1995 claiming reservation under OBC category. He secured 437th rank in the combined merit list in CSE, 1995 and was recommended by UPSC for appointment. In accordance with CSE Rules he was allotted to ICAS Group 'A' against his 8th preference. He did not join ICAS

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allotted to him on the basis of CSE, 1995 and appeared in CSE 1996 as an open market candidate. In his exercise of preference under Rule 2 CSE Rules, he indicated preference for 16 services only, out of notified strength of 28 services /posts. IN CSE, 1996 he secured 463 rd rank in the combined list and based on his relative merit position among OBC candidate and his preference for services indicated by him, as also the relevant rules, he was allotted DANICS (Group 'B') which was accepted by him.

9. While continuing in DANICS he appeared in CSE, 1997 and in his list of preferences mentioned 12 services/posts. He secured 403rd rank in the Combined Merit List of the CSE, 1997 and was recommended by UPSC for appointment. Since he appeared in CSE, 1997 while retaining DANICS allotted to him on the basis of CSE, 1996, he came within the purview of Rule 18 CSE, 1997, in terms of which he was eligible for allocation to only those services which were above DANICS in his list of preference indicated for CSE, 1996. Thus respondents point out that in accordance with Rule 18 CSE, 1997 read with Rule 2 CSE, 1996 he was eligible for allocation to only a limited number of services/posts viz. IRS; IC & CES and IAAS. He was duly considered for allocation to each of the aforesaid services but could not be allotted to any of them because his relative merit position among OBC candidates for those services was not good enough.

10. These averments have not been denied by applicant in his rejoinder to reply of Respondent No. 2

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11. We have considered the matter carefully.

12. Applicant having appeared in CSE, 1997, under the relevant rules which he must be deemed to have had full knowledge of, and having failed to secure a service as per his preference and his merit position, he cannot at this stage invoke the provisions of the Disabilities (Equal Opportunities, Protection of Rights & Full Participation) Act to compel respondents to allot him to a service under the 3% disability quota. It would have been another matter if this 3% disability quota had been provided in CSE, 1997 itself which would have given equal opportunity to other disabled, eligible candidate also to compete, but any direction of the kind prayed for by applicant to respondents in respect of CSE, 1997 at this stage, will discriminate against other disabled eligible candidates. Hence the prayer in relief para 8(iv) is rejected.

13. As regards relief paras 8(ii) and 8 (iii) respondents have correctly pointed out that the question as to how the *Persons with Disabilities Act* is to be applied to recruitment through Civil Services Examination has to be taken in consultation with the concerned Cadre Controlling Authorities after identification of posts which can suitably be manned by persons with disabilities but this can be implemented only prospectively and applicant by means of the present application cannot claim benefit from the same. Hence no directions can be given on relief paras 8(ii) and 8(iii) either.

14. Respondents have filed copies of their OMs

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dated 8.2.97 and dated 4.7.97 to show that action for providing reservation for the physically handicapped persons in Group 'A' and Group 'B' posts/services in Central Govt. pursuant to the persons with disabilities has been initiated and a High Level Committee has been set up by the Ministry of Social Justice & Empowerment (who are not respondents before us) vide order dated 11.9.98 to identify posts in Groups 'A', 'B', 'C' & 'D' to be reserved for persons with disabilities in Ministries/departments/PSUs. We express the hope that consequential action in this regard will be taken by those concerned as expeditiously as possible and in a time bound manner. Meanwhile the sealed cover in which applicant's interview results were ordered to be kept vide our interim order dated 29.4.99 should be opened and further action taken in accordance with law.

15. The OA is disposed of in terms of para 14 above. No costs.


(KULDIP SINGH)
MEMBER (J)


(S. RADICE)
VICE CHAIRMAN(A)

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