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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No. 1389/95

New Delhi: this the 27<sup>th</sup> day of January, 2000.

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

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

S. Zahur Haider Zaidi,  
S/o Prof. T.H. Zaidi,  
R/o Vill. Baragaon, Jaunpur,  
Uttar Pradesh

..... Applicant.

(By Advocate: Shri A.K. Behra)

Versus

1. Union of India  
through the  
Secretary,  
Ministry of Home Affairs,  
North Block,  
New Delhi - 1
2. The Secretary,  
Ministry of Personnel,  
Public Grievances and  
Pensions,  
North Block,  
New Delhi.
3. The Chief Secretary,  
State of Himachal Pradesh,  
Himachal Pradesh Secretariat,  
Shimla
4. The Chief Secretary,  
State of Uttar Pradesh,  
Uttar Pradesh Secretariat,  
Lucknow.
5. Shri Saket Mishra,  
C/o Director, SVP,  
National Police Academy,  
Hyderabad

..... Respondents.

(By Advocate: Shri Madhav Panikar).

ORDER

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

Applicant impugns respondents' letter dated March, 1995 (Annexure-A1) allocating him to Himachal Pradesh Cadre of IPS ~~as per~~ on the basis of CSE, 1993 and he seeks allocation to UP Cadre with all consequential benefits.

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2. Admittedly the broad principles of cadre allocation have been laid down in OP & T's D.O. letter dated 30.5.85 (Annexure-R-1/2). Admittedly applicant had qualified in CS (Main) Exam., 1993 having secured 89th rank and was appointed to IPS. Admittedly also <sup>he</sup> had not mentioned/claimed any Home State in Q1.21 of his application form for CS (Main) Ex., 1993 (Annexure-R 1/4), but had indicated 'Yes' in Q1.23(b) for considering him for allocation to his Home State. As the Home State of a candidate as declared by him in his application form for CS(Main) Exam. is accepted as the Home State for purposes of allocation to his Home State as an insider candidate, and as applicant had not mentioned any Home State in his application form for CS(Main) Exam., 1993, he was treated as a candidate having no option for allocation to Home State, and as such was allocated to Himachal Pradesh Cadre as an outsider in accordance with the principles of cadre allocation laid down in OP & T.

3. Heard both sides.

4. Applicant's counsel Shri Behra has urged that even if Q1.21 of the application form was inadvertently left unfilled by applicant, there were other materials filled by applicant in the application form, as well as the columns filled in by him in the attestation form, which clearly pointed to the fact that applicant wanted to be allocated to his Home State of U.P. as an insider to which he was entitled by virtue of his rank in CS(Main) Exam. 1993 and respondents therefore cannot be allowed to deny him his rightful entitlement of allocation

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to U.P. Cadre, as an insider merely because Col.21 of the application form remained unfilled. Reliance in this connection was placed on the CAT Chandigarh Bench Order dated 26.2.90 in OA No.985/CH of 1988 Sanjeev Kaushal , IAS Vs. UOI & Ors. wherein the Tribunal on the basis of the available materials had itself come to the conclusion as regards that applicant's entitlement for allocation on the basis of his State of domicile/Home State.

5. On the other hand, respondents' counsel Shri Panikar has invited our attention to the CAT PB order dated 6.1.98 in OA No.2583/97 Binod Kumar Vs. UPSC & Ors. In that case also, as in the present one, Col.21 of the CS(Main) Exam. application form remained unfilled, and in that case also as in the present one, that applicant sought allocation to his Home State (Bihar) as an insider. That OA was dismissed by aforesaid order dated 6.1.98, after holding that even if the omission of that applicant to fill in Col.21 of the Application form was bonafide and inadvertent, there was no corresponding duty cast on respondents to allocate him to his Home State of Bihar on the basis of other entries in the application form.

6. The order of the CAT PB was upheld by the Delhi High Court on 27.7.98 in CW No.883/98 in which it has been observed thus:

"In such matters it is important that complete information should be made available by the candidate in their respective application forms. It is practically impossible to permit the candidates to complete their forms subsequently. A large number of candidates take such public examinations, and therefore, this argument that the necessary information can be culled out from other columns also does not impress us. The examining body cannot be expected to hunt for

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the requisite information, such burden cannot be passed on to them. For this reason even assuming that the petitioner left column 21 blank due to a bona fide mistake, the petitioner cannot be permitted to fill up the lacuna at a subsequent stage. The petitioner has to bear the consequence of his lapse. The process of examinations is a time bound process and, therefore, time schedule has to be strictly maintained. If such a responsibilities are to be foisted on the examining body, the examination process will unnecessarily get prolonged which may give rise to other serious problems.

7. Shri Behra has sought to persuade as to take the view that the aforesaid CAT PB order and Delhi High Court's judgment are per incuriam because the order in Kaushal's case (supra) was not noticed either by the CAT PB or by the Delhi High Court and it is open to us to take a different view. We are unable to accept this contention. In our view the CAT PB's order in Binod Kumar's case (supra) which incidently is much more recent in point of time to that in Kaushal's case (Supra), is squarely applicable to the present case, as the facts and circumstances in the present case are very similar in all material particular to those in Binod Kumar's case (supra) and the Delhi High Court's order extracted above, lays down a ratio of general applicability which squarely governs the present case.

8. Under the circumstance, the DA is dismissed.  
No costs.

  
( KUL DIP SINGH )  
MEMBER(J)

  
( S. R. ADIGE )  
VICE CHAIRMAN (A).

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