

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 2059 of 1995

New Delhi this the 14th day of October, 1996

HON'BLE MR. JUSTICE CHETTUR SANKARAN NAIR, CHAIRMAN  
HON'BLE MR. K. MUTHUKUMAR, MEMBER(A)

Shri Abhay Kumar Gupta  
S/o Late Shri Madan Mohan Gupta  
C/o Mr. Pradeep Ranjan Tiwari,  
R-20 Greater Kailash Part-I,  
New Delhi-110 048. ....Applicant

By Advocate Shri P.R. Tiwari

Versus

1. The Secretary,  
Union Public Service Commission,  
Dholpur House,  
Shahjahan Road,  
New Delhi-110 011.
2. The Union of India,  
Through the Secretary,  
Department of Personnel and Training,  
Ministry of Personnel, Public  
Grievances and Pensions,  
North Block,  
New Delhi.-110 001.
3. The Director General,  
Central Industrial Security Force,  
13, CGO Complex,  
Lodhi Road,  
New Delhi-110 003. ....Respondents

Shri N.S. Mehta, Counsel for respondent No.3.

ORDER (ORAL)

Hon'ble Mr. Justice Chettur Sankaran Nair, Chairman

Applicant, a member of an 'Other Backward

Community', seeks a declaration that Rule 4(b) of the Civil Services Examination Rule, 1994, called the rules hereinafter, is ultra vires of Articles 14, 15, 16 and 21 of the Constitution.

2. He appeared for the Civil Services Examination during the years 1988, 1989, 1991 and 1992 and was eventually selected in 1992. He was thereafter allocated to the Central Industrial Security Force, Group 'A' and is now a member of that Force. In the meanwhile, Rule 4(a) was amended, whereby a member of an 'Other Backward Community' who could make only 4 attempts earlier, could make 7 attempts. Enthused by this, applicant (a member of the CISF) made an attempt to appear at the examination once again. His request was rejected by Annexure-I stating:-

"You joined CISF, 1992 on 7.1.1994. You also continued to be a member of that service. Application rejected under Rule 4(b)".

What is intended by this capsulised statement, is that applicant who was already a member of a Service was debarred from taking the examination by reason of Rule 4(b), which reads as under:-

"(b) A candidate allocated or appointed to the IPS/Group 'A' service/post on the basis of the Civil Services Examination held in 1993 or earlier years shall not be eligible to apply for Civil Services (Preliminary) Examination to be held in 1995; unless he first gets his allocation cancelled or resigns from the service/post".

According to the learned counsel for applicant, the amendment of 4(a) will become meaningless unless 4(b) is also read in consonance and 7 chances are extended to in-service hands also.

3. We have difficulty in accepting this submission. 4(a) and 4(b) refer to different facets. 4(a) applies to candidates who intend to take the examination, while 4(b) culls out another class, namely those already in Service. Those already in Service, cannot be approximated to those, who are outside the Service. A classification between members of a Service and those who are not members of a Service, appears to be eminently reasonable to us. An understandable reason behind this can be gleaned. If those in the Service who have been trained by the Government at considerable cost and who have acquired necessary expertise to run the Service, are allowed to go out leaving the Government high and dry, solely to advance their career prospects, public administration will be handicapped. The clock will be set back to an extent. The foremost object in having a Civil Service, is to run public administration efficiently and with continuity. Career advancement, is subject to this paramount consideration. We consider that the classification in question is reasonable, and has nexus with

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the object sought to be achieved. We find that an earlier pronouncement of the Learned Judicial Vice-Chairman and the Learned Administrative Member in O.A. No. 1442 of 1995 takes the same view. Our conclusions find support in the judgment of the Supreme Court of India in M.K. Singhania and Others vs. Union of India & Others, (AIR 1992 SC page 1). Para 80 of the judgment states that Rule 4 in its entirety, is intra vires. Paragraph 83 states further that accepting a contention like the one before us, would defeat the very object of the Rule, and in para 101 it was observed:-

" Hence for the aforementioned reasons, we hold that there is a dynamic nexus between the impugned second proviso and the object to be achieved".

The second proviso is what we are now concerned with.

4. It follows that the Original Application is without merit. We dismiss the same. Parties will suffer their costs.

Dated 14.10.1996.

  
(K. MUTHUKUMAR)  
MEMBER (A)

  
(CHETTUR SANKARAN NAIR, A.)  
CHAIRMAN

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