

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 2079/1995

New Delhi this the 31st Day of May 1996.

Hon'ble Shri A.V. Haridasan, Vice Chairman (J)

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

Shri S. Selvakumar,
A.P. 707, First Street,
12th Main Road,
Anna Nagar,
West Madras 600 040.

Applicant
/petitioner

(By Advocate: Shri Sandeep Prabhakar)

Versus

1. Union of India,
Ministry of Personnel, Public
Grievances & Pensions,
Department of Personnel & Training,
Through its Secretary,
3rd Floor, Lok Nayak Bhawan
New Delhi-110 003.
2. Union Public Service Commission,
Through its Chairman,
Dholpur House,
Sahajahan Road,
New Delhi-110 011.

Respondents

(By Advocates: Shri P.H. Ramchandani with
Shri VSR Krishna)

O R D E R

Hon'ble Shri A.V. Haridasan, Vice Chairman (J)

The applicant on his success in the Civil Services (Main) Examination, 1993 received a letter on 1.9.1994 informing him that he had been tentatively allocated to Indian Railway Traffic Service (IRTS) without taking into account the finding of the Medical Board and of the Appellate Medical Board, if any, that the tentative allocation might undergo changes and he might get a service of a higher preference or lower preference depending on the facts and circumstances obtaining in respect of candidates above him and that the

final allocation to a service would be strictly on the basis of his rank in the merit list, preference for services expressed by him, availability of vacancy and also subject to the provisions of Rule 18 of the Civil Services Examination Rules. It was also stated in the letter that the allocation would also be subject to his being declared physically fit for appointment to the service. After the medical examination which was held on 16.5.1994, the applicant was informed by letter dated 8.7.1994 that he was found unfit for Police Services as also Railway Services (IRTS/RPF) and that he was free to prefer an appeal against the findings of the Medical Board. The applicant preferred an appeal vide letter dated 30.3.1995. However, the applicant was informed that he was finally allocated to IRTS on the basis of the Civil Services Examination, 1993. Before he received the order finally allocated him to IRTS, the applicant had on 10.2.1995 applied for appearing in the Civil Services (Preliminary) Examination 1995 as the last date for submission of application was 28.2.1995. The Offer of Appointment to IRTS was received by the applicant vide his letter dated 18.5.1995 to convey his unwillingness to accept the service and requesting for cancellation of the allocation. The Ministry vide his letter dated 31.3.1995 withdrew the Offer of Appointment made to the applicant and treated it as cancelled. The applicant appeared in the Civil Services (Preliminary) Examination 1995 and was successful. While the applicant was expecting to get the Hall Ticket to appear for the main examination, he was served with the impugned order dated

30.1.1995 of the second respondent stating that his application for appearing in the Civil Services (Main) Examination, 1995 had been rejected under the provisions of Rule 4(b) of the CSE 1995 on the ground that he had failed to submit satisfactory documentary evidence of cancellation of his allocation alongwith his application form. Aggrieved by that the applicant has filed this application seeking to quash the impugned order dated 30.10.1995 Annexure P-9 and for a direction to the respondent to allow the applicant to appear in the Civil Services (Main) Examination with other consequential reliefs. It has been alleged in the application that the impugned order is arbitrary, unreasonable and unsustainable on the ground that the applicant not having been finally allocated to any service on the date on which he submitted his examination for the Civil Services (Preliminary) Examination, 1995 it was not possible for him to get the allocation cancelled and that in any event to say that the applicant should produce documentary proof of the cancellation of the application is calling upon him to perform the impossible.

2. While directing notice to be issued to the respondent on 8.11.1995 as an ad interim measure the second respondent was directed to issue Hall Ticket and Admission Card to the applicant and to permit him for the Civil Services (Main) Examination, 1995 subject to the outcome of the Original Application. On the basis of the above Interim Order, the applicant appeared for the Civil Services (Main) Examination, 1995 and his said

to have been qualified to appear for the interview/personality list. By Order dated 18.4.1996, the respondents have been directed to allow the applicant to participate in the interview/personality test subject to outcome of the Original Application. The respondent contested the application. They have filed a detailed reply statement. They have contended that as the validity of the Rule has been upheld by this Tribunal in his Judgement dated 24.5.1995 in OA No. 937/1995 and as the SLP filed against the above judgement was dismissed by the Hon'ble Supreme Court, there is absolutely no merit in the contention raised by the applicant.

3. We have heard the arguments of the learned counsel for the parties and have perused the pleadings and documents on record.

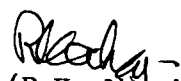
4. The identical issue involved in this case was considered by this Tribunal in OA 1442/1995 entitled P.N. Pandey Vs. Union of India and Ors. decided on 28.2.1996 to which one of us VC(J) was a party. After elaborate discussion it was held that the logical and reasonable meaning that can be attributed to the word "Allocated or Appointed" in the proviso to Rule 4 of the CSE Rules, 1995 would be finally allocated or appointed because tentative allocation did not really amount to an allocation at all. It was, therefore, held that the embargo contained in the proviso to Rule 4(b) CSE 1995 did not apply to the case of the applicant therein as at the time when he applied for the preliminary examination,

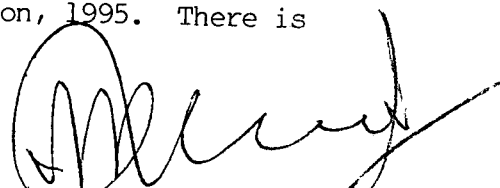
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he had only been tentatively allocated to a service and not finally allocated. It was also held that Note 4 under Rule 4 requiring protection of documentary proof of cancellation of allocation or acceptance of resignation could not be legally enforced. The factual position in this case on all counts is identical with the facts in the case of P.N. Pashupati Vs. Union of India & Ors. The applicant therein had only been tentatively allocated to IRTS and final allocation was made only by order dated 30.3.1995. Even the tentative allocation in the case of the petitioner was subject to the finding of the Medical Board and he had been by letter dated 8.7.1994 (Annexure P-2) informed that he was unfit for Police Services as well as Railway Services IRTS/IRPS. Thus, as on the date on which the applicant applied for the Civil Services (Preliminary) Examination, 1995 he was not allocated or appointed to IRTS. Hence, the impugned order cancelling his candidature is unsustainable.

5. In the result the application is allowed, the impugned order Annexure P-9 cancelling the candidature of the applicant for the Civil Services Examination, 1995 is set aside and the respondents are directed to accept the candidature of the applicant as valid and to declare his result in the Civil Services Examination, 1995. There is no order as to costs.


(R.K. Anooja)
Member (A)


(A.V. Haridasan)
Vice Chairman (J)