

-/-

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 2086/95

New Delhi this the 22nd day of May 1996.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr R.K.Ahooja, Member (A)

Mukesh Kumar
Son of Shri R.K.Tanwar
R/o A-240, Pandara Road
New Delhi.

...Applicant

(By Advocate: Shri G.D.Gupta)

Versus

1. Union Public Service Commission
through its Secretary
Dholpur House
Shahjahan Road
New Delhi-110 011.

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

...Respondents.

(By Advocate: Shri P.H.Ramchandani & Shri V.S.R.Krishna)

O R D E R (Oral)

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

The applicant who was tentatively allocated to the post of Assistant Commandant under the Central Industrial Security Force (CISF) as a result of the Central Services Examination (CSE) held in 1993 applied for the Central Services (Preliminary) Examination, 1995. He was not allowed to appear in the main examination on the ground that he did not, before applying for the CSE (Preliminary), get his allocation to the CISF cancelled as required under Rule 4 (b) of the Rules for the CSE, 1995. The applicant has filed this application aggrieved by the said decision. Among other grounds, it has been alleged that as the applicant was only tentatively allocated to a post in CISF as a result of the CSE 1993 and as he was not sure as to what would be

(9)

the final allocation, he could not cancel the allocation and that even if it is presumed that he has to get his allocation cancelled, the best that he ^{could} do was to apply for cancellation - the actual cancellation being in the hands of the respondents. The applicant contends that compelling the applicant to produce the evidence of cancellation of the ^{allocation amounting to} respondents is compelling a person to perform the impossible. Various other grounds have been raised by the applicant and it has been specifically contended that the final allocation to CISF came only on 3.4.95 ^{order} while he had applied for Central Services (Preliminary) Examination on 29.12.94, the last date for receipt of application being 6.2.95.

2. Notices having been served on the respondents, the first respondent - UPSC - has filed a reply. The second respondent has also filed a separate reply. The second respondent in the reply statement has stated that the respondent has no objection in the relief as prayed for being granted to the applicant. In view of this stand taken by the second respondent, learned counsel of the first respondent also says that the first respondent doesn't have a different stand.

3. We have gone through the pleadings in this case and have also heard Shri G.D.Gupta, learned counsel of the applicant and Shri P.H.Ramchandai and Shri V.S.R.Krishna for the respondents.

4. Under identical circumstances in Pasupati Nath/Pandey Vs. UOI ON 1442/95 decided on 28.2.96, this Bench held that the allocation mentioned in Rule 4 (b) of CSE Rules 1995 should be taken to mean only the final allocation and not tentative allocation and it has been held that insisting on production of documentary proof of the allocation ~~which has been cancelled~~ ^{which has been cancelled} will be compelling a person to perform the impossible and that the note below the Rule 4 (b) of CSE Rules 1995 cannot be validly enforced. As the facts and circumstances of this case are similar to the case of Pasupati

3

(10)

Nath Pandey, we do not have any reason to take a different view in this case also. Learned counsel of the respondents also agrees that the issue is squarely covered by the said rule and they have no objection to the similar view being taken.

3. During the pendency of the application pursuant to the interim order, the applicant had been permitted to appear in the Civil Services (Main) Examination. We are informed that he has qualified for the personality test. In the conspectus of the above facts and circumstances, we dispose of this application declaring that the applicant was eligible to appear for Civil Services(Main) Examination 1995 and with a direction to the respondents to publish the results after the personality test is over and act in accordance with the ~~above~~ results. *Thereof*

There is no order as to costs.

R. K. Ahooja
(R.K.Ahooja)
Member (A)

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

A. Ashraf