

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A./XXX. No. 1485/1996

Decided on:

4/12/96

Shri Nirmal SinghApplicant(s)

(By Shri H.K. Gangwani Advocate)

Versus

Union of India & OthersRespondent(s)

(By Shri Vijay Mehta Advocate)

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN, VICE CHAIRMAN

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

1. Whether to be referred to the Reporter *yes*
or not?

2. Whether to be circulated to the other
Benches of the Tribunal?

u
(K. MUTHUKUMAR)
MEMBER (A)

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 1485 of 1996

New Delhi this the 4 day of ~~November~~, 1996

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri Nirmal Singh

S/o Shri Kehar Singh

R/o Quarter No.45/IV

North West Moti Bagh,

New Delhi-110021.

..Applicant

By Advocate Shri H.K. Gangwani

Versus

Union of India through

1. The Secretary,
Department of Personnel & Training,
Government of India,
North Block,
New Delhi.

2. The Secretary,
Department of Economic Affairs,
Ministry of Finance,
Government of India,
North Block,
New Delhi.

3. The Secretary,
Department of Education,
Ministry of Human Resource Development,
Government of India,
Shastri Bhawan,
New Delhi.

....Respondents

By Advocate Shri Vijay Mehta

ORDER

Hon'ble Mr. K. Muthukumar, Member (A)

The applicant an officer of the Central
(C.S.S.)
of the Central Secretariat Service/ is aggrieved
by the order dated 19/20.6.1996, Annexure A-1

by which the respondent No.1 has communicated to his Ministry in which he was working, namely, respondent No.3 regarding the reconsideration of his cadre clearance for training in U.K. under Colombo Plan 1996-97. The applicant's case is that in response to a Circular issued by the Ministry of Finance, Department of Economic Affairs by the Office Memorandum dated 24.1.1996 inviting nominations of sponsoring departments/Ministries for long-term courses in U.K. under the Colombo Plan, he had applied for the programme in M.Sc. National Development and Project Planning which was duly recommended by the respondent No.3 and the nomination was sent directly to the respondent No.2 after due approval by the competent authority, respondent No.3. An advance copy of the nomination was also sent directly to the respondent No.2 on 23.2.1996 and his cadre clearance was required to be given by respondent No.1, who is the cadre Controlling Authority in respect of CSS to which he belongs. The respondent No.2 finalised 4 names including that of the applicant for the said course and conveyed their selection to the British Council which is an agency for conducting training programme.

in U.K. under the Colombo Plan and respondent No.3 was simultaneously asked to give cadre clearance in respect of the applicant. The matter was taken by the respondent No.3 with the respondent No.1 for such cadre clearance. This was not given by respondent No.1 and being aggrieved by this denial, the applicant has approached this Tribunal with a prayer for a direction to, quash and set aside the impugned order and also for a direction to respondent No.1 to give cadre clearance so that the applicant can proceed for his training course in U.K.

2. Since the matter under issue is relatively a short one, the application has been taken up for disposal at the admission stage after completion of pleadings and after hearing the learned counsel for the parties.

3. The respondent No.1 had submitted that his Department considers only officers who belong to the Indian Administrative Service, State Civil Services, Central Secretariat Services and also such of those officers belonging to other Group 'A' organised services serving under the Central Staffing Scheme. Accordingly, the applicant who belongs to the Central Secretariat Service comes under the purview of the respondent No.1 for the purposes of cadre clearance for nomination to

(9)

the aforesaid course. It is contended that the Department of Personnel & Training had issued a circular on 28.2.1995 itself inviting nominations for the aforesaid 4 categories of officers. It was made clear that nominations made in response to this letter, will be considered for all the courses for which nominations are sought and it was made clear that no nominations should be sent to respondent No.2 directly. A copy of the said circular is shown at Annexure R-1. After considering nominations from various sources in response to the above circular of the Department of Personnel & Training, the Department of Education in which the applicant was working had also forwarded nominations of officers of that Department for the said training course to be held during the year 1996-97. The respondents also have outlined the procedure for selection. It is stated that training circular is brought out in advance to facilitate timely selections of the applicants belonging to the 4 categories mentioned above for various training programmes. On the basis of the nominations received, the Department of Personnel carries out an elaborate selection procedure and officers are shortlisted for various training programmes and the names of such officers are screened by the Central

(10)

Establishment Board comprising 4 Secretaries to the Government of India and Establishment Officer and after the approval of the Minister-in-charge, the selected names are forwarded to the Department of Economic Affairs. Since Department of Personnel is a nodal department in respect of 4 categories of officers including officers of Central Secretariat Service, it was necessary that the applicant should have been nominated in the first place in the Department of Education in which he was working in response to the aforesaid circular. The Department of Education had sent a proposal for cadre clearance in respect of the applicant although his name was not originally included in the list of nominations sent by the Department in respect of this programme but the same was sent in response to his application to the respondent No.2 vide his circular dated 24.1.1996. In keeping with the standard policy of the Department not to give cadre clearance to the officer who applied directly to the Department of Economic Affairs for the same course for which nominations were sought and obtained by the Department of Personnel and Training and after proper approval of the competent authority, cadre clearance was refused to the applicant. The respondents further contend that since DOP&T, respondent No.1 is the nodal Ministry in respect of 4 categories of officers

mentioned above, the fact that representative of the DOP&T who was functioning as a formal observer during the selection by the DEA, does not obviate the need for cadre clearance in respect of the applicant in the aforesaid 4 categories by the nodal Ministry, namely, respondent No.1.

4. We have heard the learned counsel for the parties and have carefully perused the record.

5. It is an admitted position that the applicant did not respond to the circular of respondent No.1 which was issued with the clear direction that this applies to all the officers of the CSS besides the other three categories of officers. It was also made clear that no nominations in response to the above circular should be sent to the respondent No.2 directly. It is also an admitted position that the respondent No.3 under whom the applicant has been working had finalised his nominations in response to the above circular. The applicant on his own initiative had responded to the circular of the respondent No.2 inviting nominations and on that basis of his nomination by respondent No.2,

his department, namely, respondent No.3, then approached the nodal Ministry, which is respondent No.1 for cadre clearance. The procedure for nomination in respect of the officers belonging to the aforesaid 4 categories including the officers of the Central Secretariat Service has been outlined by the respondent No.1 and we do not

(12)

find anything objectionable in this procedure. The Department of Personnel is the nodal agency for making recommendations and nominations on a centralised basis in respect of these categories of officers, more so in the case of Central Secretariat Service Officers for whom the respondent No.1 is the Cadre Controlling Authority. It is an admitted position/in response to the various nominations received from the Ministries/Departments, respondent No.1 had already finalised nominations for the various courses and, therefore, the applicant was not reckoned, as he was not nominated at that time by the concerned department. Since the respondent No.1 has already finalised the nominations in respect of various courses, the applicant's nomination was arranged directly by the respondent No.2 without the cadre clearance, which is not within the approved procedure and, therefore, the action of the respondent No.3 in not giving cadre clearance in respect of the applicant cannot be faulted. The respondent No.1's earlier circular was addressed to all the Departments/Ministries for inviting names of those respective departments in respect of 4 categories of officers serving in those Departments/Ministries. His name was not recommended by the respective Ministry/Department

(3)

in response to the Circular of February, 1995 of the respondent No.1. In view of these circumstances, the applicant cannot be expected to be supported for his unilateral action of applying directly to respondent No.2 and his nomination by the respondent No.2. The fact that a representative of the respondent No.1 was present in the meeting does not amount to giving their approval to the nomination as respondent No.1 had already finalised their own nominations and, therefore, this plea of the applicant is not tenable.

6. In the facts and circumstances of the case, there is no merit in the application. The application is, therefore, dismissed but without any order as to costs.


(K. MUTHUKUMAR)
MEMBER (A)
(A.V. HARIDASAN)
VICE CHAIRMAN (J)

RKS