

Central Administrative Tribunal
Principal Bench

O.A.No.2007/96

Hon'ble Mr. Justice K.M.Agarwal, Chairman
Hon'ble Shri R.K.Ahooja, Member(A).

New Delhi, this the 30th day of October, 1998

Jag Mohan
Indian Police Service, (Probationer)
Sardar Vallabh Bai Patel
National Policy Academy
Hyderabad.

... Applicant

(By Shri B.T.Kaul, Advocate)

Vs.

1. Union of India, through
The Secretary
Ministry of Home Affairs
North Block
New Delhi - 110 001.
2. Union of India through
The Secretary
Department of Personnel & Training
North Block
New Delhi - 110 001.
3. Union Public Service Commission
through The Secretary
Dholpur House
Shahjahan Road
New Delhi - 110 011.

... Respondents

(By Shri Madhav Panikar, Advocate)

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

The applicant who belongs to the Scheduled Tribe community was selected and recommended for appointment to the Indian Police Service on the basis of Civil Services Examination, 1994. He is aggrieved by his allocation to the Bihar cadre of the IPS instead of Uttar Pradesh cadre which is his home State, on the basis of 'Roster' system described in Ministry of Personnel and Training's D.O.No.13013/5/84-AIS(1), dated 31.5.1985, Annexure A1. His grievance is that para 3(2) of the said letter lays down that for the purpose of reservation of 'insider' vacancies Scheduled Casts and Scheduled Tribes will be

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grouped together and the percentages will be added. The applicant submits that grouping of Scheduled Castes and Scheduled Tribes together has deprived him of the benefit of separate seven and half percent reservation for Scheduled Tribes and even though he is the only insider candidate from the Scheduled Tribes, he has been left out in preference for the Scheduled Castes insider candidate.

2. In the reply the respondents have stated that 200 point roster is adopted for calculating the total vacancies for General, OBC, SC and ST candidates. The vacancies in each cadre are divided amongst General, OBC and SC/ST in the 'Outsider' and 'Insider' quotas on the basis of 2 : 1 on continues 3 point roster, Outsider - Insider - Outsider. The three point roster is used for the total number of vacancies as well as for reserved vacancies. They submit that this roster system has been upheld by the Hon'ble Supreme Court in the case of Union of India Vs. Rajeev Yadav, AIR 1995 SC 14. They further submit that the constitutional requirement of 15% and 7 and half percent for SC and ST categories is met at the time of recruitment to the service; clubbing the SC/ST for the purposes of allocation to a cadre, which is an incident of service, has been evolved as part of an equitable policy so that both general as well as reserved candidates get a fair chance for getting allocation of their home states securing at the same time dispersal of both General and Reserved candidates to various cadres as a matter of government policy. They pointed out that if SC and ST candidate appointments are considered separately for cadre allocation, it would result in SC/ST

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candidates getting accumulated in a few small cadres as outsiders. In some cadres there may not be any SC/ST candidates at all.

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3. We have heard Shri B.T.Kaul for the applicant and Shri Madhav Panikar, for the respondents. The learned counsel for the applicant argued that the impugned policy of the Government for purposes of cadre allocation has resulted in discrimination to the Scheduled Tribe candidates as Schedules Caste candidates generally do better than the Scheduled Tribe candidates and therefore secure higher positions and thus monopolize in the matter of allocation to home state from the reserved category. He drew our attention to the list of appointments of candidates to the Uttar Pradesh cadre between 1990-1995 and submitted that though a number of Scheduled Caste candidates had been allotted to UP as insiders, there was not even a single Scheduled Tribe candidate who had been allocated to UP cadre as an Insider. Shri Kaul argued that the reservation percentages for the OBC, Scheduled Castes and Scheduled Tribes were entirely distinct and separate. The Government had kept the OBC reservation separate from the SC/ST reservation and equity demanded that SC and ST should also have separate reservations amongst them. Asked as to how the seven and half percent reservation could be implemented considering the small number of posts for insiders, Shri Kaul suggested that Government should adopt the 40 point roster in the reservation quota for SC/ST and allocate the insider reserved vacancies for these groups to SC or ST in the same sequence as provided in the 40 point roster. He submitted that while he could not be definite on the point, his impression was that not a single ST

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candidate had been allocated to an 'insider' vacancy so far as UP was concerned. It was also implied that the conditions of SC and ST candidates as far as their economic back ground and social and education and progress was concerned, was not equal and comparable, at least so far as ~~UP~~ UP is concerned, and consequently without the full benefit of the reservation in state allocation, the constitutional objective of reservation would not be met. He therefore urged that the provision regarding treating the SC/ST categories in the impugned letter be struck down and the respondents be directed to consider the case of the applicant on the basis of 40 point roster starting from 1985. (17)

4. The learned counsel for the respondents submitted that the present policy had stood the test of time as well as legal scrutiny. Hon'ble Supreme Court had upheld this policy in its order in Union of India Vs. Rajiv Yadav (Supra). The issue had also come before the Hyderabad Bench in OA No.1228/96 and by its order dated 10.12.1997 the Tribunal had declined to interfere in the matter.

5. We have carefully considered the important issues raised by the learned counsel for the applicant but following the conclusions of the Co-ordinate Bench at Hyderabad in OA No.1228/96, with which we respectfully agree, we are not inclined to interfere in the matter and to grant relief sought for. It is true, as contended by the learned counsel for the applicant, that the Supreme Court had not examined the issues raised by the applicant herein in Union of India Vs. Rajiv Yadav (Supra) since the issue there was legality of reservations as such in

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the matter of allocation to cadres of IAS. Nevertheless, the principles laid down by the Hon'ble Supreme Court would support the contentions advanced by the learned counsel for the respondents. In this context, we may reproduce the observations of the Hon'ble Supreme Court in Para 5 of the said judgment:

"We may examine the question from another angle. A selected candidate has a right to be considered for appointment to the IAS but he has no such right to be allocated to a cadre of his choice or to his home-State. Allotment of cadre is an incidence of service. A member of an All India Service bears liability to serve in any part of India. The principles of allocation as contained in Clause 2 of the letter dated May 31, 1985, wherein preference is given to a Scheduled Caste/Scheduled Tribe candidate for allocation to his home State, do not provide for reservation of appointments or posts and as such the question of testing the said principles on the anvil of Article 16(4) of the Constitution of India does not arise. It is common knowledge that the Scheduled Caste/Scheduled Tribe candidates are normally much below in the merit list and as such are not in a position to compete with the general category candidates. The Roster System ensures equitable treatment to both the general candidates and the reserved categories. In compliance with the statutory requirement and in terms of Article 16(4) of the Constitution of India 22 and half of percent reserved category candidates are recruited to the IAS. Having done so both the categories are to be justly distributed amongst the States. But for the "Roster System" it would be difficult rather impossible for the Scheduled Castes/Scheduled Tribes candidates to be allocated to their home States. The principles of cadre allocation, thus, ensure equitable distribution of reserved candidates amongst all the cadres."

6. Thus Hon'ble Supreme Court thus concluded that a person appointed to an All India Service has no claim or right to be allocated to his home state and secondly that the roster system followed by the Government of India ensures an equitable system to both the general candidates and reserve candidates.

7. The respondents would say that grouping of SC/ST together is in the overall interest of better representation of both SC/ST candidates in their home states. That could well be so. While insider SC candidates may be in a better position vis-a-vis ST

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candidate in Uttar Pradesh, there may be hardly any SC candidate in cadres like Nagaland or Manipur - Tripura. The change in the policy may ensure that ST candidates selected from such States may never find a place in their home cadre. At the same time, adoption of 40 point roster as suggested by Shri Kaul, may further complicate the system of allocation to cadres in a situation where already considerable delay is involved. The contention of the respondents that separate allocation for SC and STs would also mean that no allocation of the persons belonging to these castes will be made in small cadres also appears to be logical. For these reasons we consider that the system which has already stood the test of time, should not be changed because in one or two cases there is some semblance of inequitable treatment. More so, when as held by the Hon'ble Supreme Court the persons recruited to an All India Service have no inherent right of being allocated to any particular cadre of their own choice.

8. We also agree with the conclusion of the co-ordinate Bench at Hyderabad that the formulation of an allocation scheme is a policy decision of the Government with which the Tribunal should not interfere.

9. In the result, the OA is dismissed. There shall be no order as to costs.

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(K.M. Agarwal)
Chairman

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

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