

Central Administrative Tribunal
Principal Bench

(69)

O.A. No. 864 of 1996

New Delhi, dated this the 16th February, 2000

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mr. Kuldip Singh, Member (J)

Shri Ashutosh Jindal,
S/o Shri P.S. Jindal,
Permanent Resident of 50-Power Colony No.1,
Model Town,
Patiala-147001.
Punjab. ... Applicant

(By Advocate: Shri A.K. Behera)

Versus

1. Union of India through
the Secretary,
Ministry of Personnel, Public Grievances and
and Pensions, North Block,
New Delhi-110001.
2. Chief Secretary,
State of Tripura,
Tripura Secretariat,
Agartala,
3. Director,
Lal Bahadur Shastri National Academy
of Administration,
Mussoorie, U.P. ... Respondents

(By Advocate: Shri VSR Krishna)

ORDER (Oral)

HON'BLE MR. S.R. ADIGE

Applicant impugns respondents' orders dated 29.12.96 (Annexure A-1) and 23.1.1996 (Annexure A-2) allocating him to State of Manipur-Tripura cadre as an outsider and seeks allocation to State of Punjab cadre with all consequential benefits.

2. Admittedly applicant appeared in the Civil Services Examination, 1994 and secured first position in the All India Merit List as well as

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amongst the candidates selected from the Punjab State for the I.A.S.

3. Applicant emphasises that the cadre allocation in IAS has to be done in accordance with the cadre allocation policy, and vacancies meant for reserved category candidates have to be determined on the basis of the Model 40 Points roster. According to him the 12th slot of such roster in any cadre is an unreserved one and has to be given to a General Category candidate and in the instant case in Punjab State the slot for an 'insider' should have been an unreserved one and should not have been reserved as was done by Respondents. In that case this vacancy would have gone to an unreserved category strictly in accordance with merit, and in that eventuality the insider vacancy in Punjab State would have automatically gone to applicant he being first in order of merit. He thus contends that and thus his allocation to any other cadre was against the policy of cadre allocation and the operation of 40 point roster.

4. He also contends that in a particular year a single vacancy cannot be reserved and in the relevant year there was only one insider vacancy and the said vacancy was outside the purview of reservation and in that eventuality applicant should have been allotted to the said vacancy.

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(23)

5. It is further contended that in a particular year not more than 50% of total vacancies can be given to reserved category candidate but in the relevant year two vacancies out of three given to reserved category candidates. In this very connection it has also been contended that reserved category candidates are already over represented as far as the insider direct recruitment quota in the I.A.S. cadre of Punjab State is concerned.

6. It is further contended that the cadre allocation in accordance with Rule 5(1) of the IAS Cadre Rules stipulates consultation with the State Government concerned but in the present case no consultation as prescribed in the Rule 5(1) of the IAS Cadre Rules was made.

7. We have given the matter our careful consideration.

8. We note that applicant does not specifically deny the specific averments of respondents in Paragraph 7 of their reply that there were three vacancy slots to be filled in the I.A.S. cadre of Punjab on the basis of Civil Services Examination, 1994 and according to the 30 point roster, among the three vacancies, one was for an insider and two for outsiders. There is also no specific denial to the specific averment in Paragraph 7 of respondents' reply that the only insider vacancy was assigned for an OBC candidate and the two outsider vacancies were assigned to a general and a

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SC/ST candidates, but as no insider OBC candidate was available, the 'insider' OBC slot was 'exchanged' with the 'outsider' vacancy slot for the other reserved category SC/ST and as Shri H. Lal (SC) at rank 185 was available he was allocated against the only 'insider' vacancy and applicant's name was put in the roster and as seen in the roster list, ^{he} came against the Joint Cadre of Manipur-Tripura.

9. In this connection respondents emphasise that the allocation of applicant to Manipur-Tripura Cadre has been made strictly in accordance Rule 5(1) IAS Cadre Rules read with Secretary, Department of Personnel & Training D.O. letter dated 30/31.5.1985 (Annexure A-3). ^{It is} ~~re~~ stated that this particular O.M. has been upheld by the Hon'ble Supreme Court in Rajiv Yadav's case, and furthermore it has been stressed that as per 30 Point roster for allocation to State cadre maintained by Respondents from 1985 onwards, the single vacancy in Punjab State for direct recruitment on the basis of Civil Services Examination, 1994 was a reserved vacancy and applicant being a general category candidate could not have been allotted to that State even though he was No. 1 in the All India Merit List.

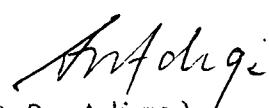
10. As regards ^{the} argument that only 50% of vacancies can be given to reserved category candidates, respondents have stressed that the same has to be followed only at the time of initial recruitment and not during the allocation of cadres. In fact the Hon'ble Supreme Court in Rajiv Yadav's

case (supra) has categorically held that IAS Officer has no legally enforceable right to claim allocation to a particular cadre of his choice. For the same reason, the assertion that applicant should have been allocated to Punjab State because reserved category candidates are over represented as far as insider direct recruitment quota in I.A.S. cadre of Punjab are concerned is unsustainable in law because over time the representation of different categories tends to even out.

11. In so far as the application of Rule 5(1) IAS Cadre Rules is concerned it has been emphasised that the competent authority was consulted at the time of applicant's allocation to the Manipur-Tripura Cadre. It is urged that consultation does not mean concurrence and in any case there was no objection on the part of those authorities to applicant's allocation to that cadre.

12. In the result we find unable to grant the relief prayed for by applicant. The O.A. fails and it is dismissed. No costs.


(Kuldip Singh)
Member (J)


(S.R. Adige)
Vice Chairman (A)

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