

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A./~~xxx~~. No. 1090/96. /19

Decided on: 14.10.96.

Shri Saket Mishra

..... APPLICANT(S)

(By Shri Sumant Bhardwaj.)

Advocate)

VERSUS

UOI & another.

..... RESPONDENTS

(By Shri P.H.Ramchandani.)

Advocate)

CO RAM

THE HON'BLE SHRI S.R.ADIGE MEMBER (A).

THE HON'BLE ~~XXXX/XXX~~ / DR. A.VEDAVALLI, MEMBER (J).

1. To be referred to the Reporter or not? **Yes.**
2. Whether to be circulated to other Benches of the Tribunal? **No.**

S.R. Adige
(S.R.ADIGE)
MEMBER (A).

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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A.No. 1090/96

New Delhi: this the 14th day of Oct., 1996.

HON'BLE MR. S.R. ADIGE MEMBER (A).

HON'BLE DR. A. VEDAVALLI MEMBER (J)

Shri Saket Mishra,
S/o Shri Nripendra Mishra,
R/o B-9, A, Gangotri Enclave,
Alaknanda,
New Delhi - 110 019. Applicant

By Advocate : Shri Sumant Bhardwaj

Versus

1. Union Public Service Commission
through
The Secretary (Sangh Lok Seva Ayog),
Dholpur House,
Shahjahan Road,
New Delhi - 110 001.

2. The Secretary,
Ministry of Home Affairs,
Govt. of India,
New Delhi Respondents

By Advocate: Shri P.H. Ramchandani.

JUDGMENT

BY HON'BLE MR. S.R. ADIGE MEMBER (A)

Heard

2. Admittedly the applicant successfully competed in the Civil Service Exam., 1993 (CSE 1993) and was tentatively allotted to IFS vide DPAT's letter dated ^{August,} 1994 and was asked to join the IBS National Academy of Administration, Mussorie for Foundational Course on 3.9.94. He did not do so, but requested DPAT vide his letter dated 6.9.94 (Annexure-page1) to permit him to join IFS late by one year on personal grounds and the same was allowed vide DPAT's letter dated 7.11.94 (Ann

21/I) subject to the following conditions:

1) His seniority would be depressed in

terms of the relevant seniority rules;

ii) In case he failed to join the FC if nominated next year or professional training, his candidature would be cancelled; and

iii) That the permission would be used to appear in CSE, 1994. Any violation would result in the cancellation of candidature of both CSE, 1993 and CSE, 1994.

3. Thereafter by letter dated 29.6.95 (Annexure-RII/2) an offer of appointment for IFS (final service allocation) on the basis of CSE, 1993 was sent to the applicant by registered post with a request to inform the respondents by telegram within 3 days whether he accepted the same or not. The respondents state that no reply was received to that letter. The applicant was again requested vide telegram dated 23.8.95 (Annexure-RII/3) to report to IBS NAA for FC on 3.9.95 and it was also stated in that telegram that in case he was not interested to join IFS he should inform the respondents immediately. It was made clear to him in telegram that no further extension of time to join IFS would be granted to him and his candidature for IFS would be cancelled without further notice, but respondents state that he neither joined FC / Probationary Training, nor responded to the aforesaid telegram. In the circumstance his candidature for IFS on basis of CSE, 1993 was cancelled vide letter dated 25.4.96 (Annexure-RI)

and he was informed of the same by registered post.

4. Thereafter on 2.5.96 he wrote to the respondents (Annexure-RII/4) stating that he had sent a letter dated 15.1.95 to the respondents declining the offer of appointment to IFS on the basis of CSE, 1993 and requesting that UPSC be informed that his intention for not joining IFS on basis of CSE 1993 was known to the respondents in February, 1995. Respondents deny receiving any such letter dated 15.1.95.

5. The respondents have rejected the applicant's candidature for CSE, 1995 in the background of Rule 4(b) CSE Rules, 1995 read with Note 4 to those Rules.

6. In OA No. 1442/95 P.N. Pandey Vs. UOI decided on 28.2.96 it has been held by the Tribunal that the term "allocated" used in Rule 4(b) above means final allocation and not merely tentative allocation.

7. In the present case however, we notice that the applicant was informed of his final allocation to IFS on basis of CSE 1993 by letter dated 29.6.95. The respondents have correctly pointed out that the applicant had on the one hand sought extension of 1 year to join IFS, which was upto August-September, 1995, and on the other claims that he sent a letter dated 15.1.95 (which respondents deny ever having received) declining offer tentatively made to

him i.e. much in anticipation of final service allocation which was intimated to him on 29.6.93. In fact in his letter dated 2.5.96 he has stated

• If required I can submit an affidavit stating the same and the fact that the letter may not have reached the relevant authority due to an oversight on my part (emphasis supplied)

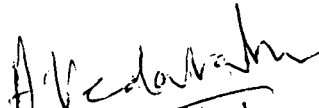
8. In other words the applicant is himself admitting that his letter dated 15.1.95 may not have reached the relevant authority due to his own oversight.

9. As per Rule 4(b) read with Note 4 below that sub-rule, merely writing to the competent authority would not suffice. The candidate should produce documentary proof that his/her offer of allocation had been actually cancelled/resignation has been accepted.

10. If the applicant had indeed sent any letter dated 15.1.95 (which the respondents deny having received and the applicant is himself unsure whether it ever reached the competent authority) he should have taken steps well in time to get his allocation on basis of CSE 1993 cancelled, pursuant to that letter. Even after his final allocation was intimated to him by letter dated 29.6.95, ^{and subsequent telegram dated 23.8.95} he did nothing to get that allocation cancelled and woke up only near one year later on 2.5.96.

11. The courts cannot protect those who are not vigilant about their own rights, and no advantage can accrue to the applicant on account of any delay by respondents in communicating final allocation of service to the applicant in view of his own conduct in the matter as discussed above. In this connection we are fortified by the CAT PB New Delhi decision in Pratap Singh Vs. DOI 1994(3) SLJ 314.

12. In the result the OA warrants no interference. It fails and is dismissed. Interim orders are vacated. No costs.


(DR.A.VEDAVALLI)
MEMBER (J)


(S.R.ADIGE)
MEMBER (A)

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