

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 157 of 1997

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New Delhi, dated this the 30th JUNE 1997

HON'BLE MR. S.R. ADIGE, MEMBER (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Navin Mittal,
S/o Shri M.L. Mittal,
R/o 19, Raghbir Colony,
Model Town,
Patiala-147001.
Punjab. APPLICANT

By Advocate: Shri K.T.S.Tulsi

VERSUS

1. Union of India through
the Secretary,
Ministry of Personnel, Public Grievances
and Pensions,
North Block,
New Delhi.
2. Chief Secretary,
Govt. of Andhra Pradesh,
Andhra Pradesh Secretariat,
Hyderabad.
3. Director,
Lal Bahadur Shastri National
Academy of Administration,
Mussoorie.
4. The Chief Secretary,
Govt. of Punjab,
Punjab.
5. Shri Rajkamal Chaudhary, IAS(OT)
Lal Bahadur Shastri National
Academy of Administration,
Mussoorie. .. RESPONDENTS

By Advocate: Shri V.S.R.Krishna

J U D G M E N T

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

Applicant seeks quashing of impugned
notification dated 18.11.96 (Ann. A-1)
allocating him to A.P. cadre of IAS and seeks
allocation to Punjab cadre with all
consequential benefits as an insider, i.e. as
one hailing from Punjab State.

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2. Article 312 of the Constitution provides for the constitution of All India Services which are common to the Union and the States. The IAS is one such All India Service where recruitment is centralised and thereupon the recruits are allocated to different State/Joint cadres.

3. Direct recruitment to IAS is made on the basis of the Civil Services Exam. conducted annually by the UPSC. To give effect to the objective of reservation for SC/ST in recruitment to posts filled on all India basis, Ministry of Home Affairs issued O.M. dated 22.4.70 (Ann. A-5) prescribing a model 40 point roster, on the basis of which direct recruitment on all India basis was to be made by open competition. With reservation extended to OBCs also, and in the light of the Hon'ble Supreme Court's ruling in Indra Sawhney's case, the need arose to revise the 40 point roster, and accordingly by DP&T's O.M. dated 22.10.93 (Ann. A-4) a 200 point roster was prescribed for all civil posts and services under Govt. of India, including posts to be filled up on all India basis through direct recruitment by open competition. This 200 point roster which replaced the earlier 40 point roster was made applicable from Civil Services Exam., 1994 onwards. A perusal of both O.Ms makes it clear that the application of the 40 point roster and subsequently the

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200 point roster was to be confined to the recruitment stage i.e. at the initial entry level into the Service, and neither O.M. contains any material on the basis of which it can be construed that it was to extend beyond that stage, to the allocation of All India Service Officers to different State/Joint cadres.

4. Admittedly after determining the total number of vacancies (80) to be filled, through CSE, 1995, the 200 point roster was applied for distribution of that total number amongst General (40); OBC (22); SC (12) and ST (6) category and UPSC was informed accordingly, who recommended an equal number of candidates for appointment against those vacancies. Applicant who appeared in CSE, 1995 as a General category candidate secured 3rd rank in order of merit. He had declared Punjab as his home State and sought allocation to Punjab cadre as an insider. There were three vacancies to be filled in Punjab cadre on basis of CSE, 1995.

5. Cadre allocation of direct recruits in All India Services through a CSE for a particular year is regulated by Secretary, DP&T's D.O. letter dated 30/31.5.85 (Ann. A-3) which has been upheld by the Hon'ble Supreme Court in Rajiv Yadav's case (1994) 6 SCC 38 as per applicant's own averments. By this D.O. letter, vacancies in every cadre are to be earmarked for outsiders and insiders in the ratio of 2:1 by repeating the cycle "Outsider" : "Insider": "Outsider". Vacancies

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for SC & ST are to be reserved in the various cadres according to prescribed percentage. For this purpose SC & ST are to be grouped together and their percentages added. Distribution of revised vacancies in each cadre between 'Outsiders' and 'Insiders' is also to be done in the ratio of 2:1 and is to be operationalised by repeating the cycle 'Outsider': 'Insider': 'Outsider' as is done in the case of general candidates.

6. According to respondents the three vacancies in Punjab cadre to be filled through CSE, 1995 were divided into the ratio of 2 Outsiders: 1 Insider. Following the cycle of 'Outsider': 'Insider': 'Outsider' and also applying the prescribed percentage for reservations, the first post had to go to an Outsider and on the basis of the prescribed percentage for reservations as per 30 point roster it had to go to an OBC (27.5% of 3 posts = .825 or 1 post). Similarly the second post had to go to an insider and applying the prescribed percentage for reservations it had to go to an SC/ST (15% plus 7.5% = 22.5% of 3 posts = .675 or 1 post). The third post again had to go to an outsider and to a general candidate. Applicant being a general candidate therefore could not be allocated to Punjab cadre as an insider.

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7. Applicant can succeed in his prayer for allocation to Punjab cadre as an insider if he can establish that the insider vacancy must go to a General category candidate, but the above analysis based on the 30 point roster makes it manifest that the insider vacancy has to be allotted to a reserved candidate.

8. Applicant contends that just as in the past the 40 point roster was followed not only at the time of initial recruitment but also at the time of cadre allocation, now with the introduction of 200 point roster, the latter has to be followed not only at the time of initial recruitment but also at the time of cadre allocation, and if that was done the insider vacancy would go to a general candidate. On the other hand respondents deny that the 40 point roster was ever followed at the time of cadre allocation and state that the same has been made strictly in accordance with their d.o. letter dated 30/31-5-1985 which follows a 30 point roster.

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9. We notice that neither MHA's O.M. of 22nd April, 1970 introducing the 40 point roster, nor indeed DP&T's O.M. dated 22.10.93 replacing the 40 point roster with the 200 point roster makes any mention of applying these rosters at the time of cadre allocations. Both O.Ms specifically relate to the stage of initial recruitment, and not to any stage subsequent to that. The fact that the O.M. dated 22.10.93 relates to the application of the 200 point roster at the time of initial recruitment alone, is supported by the fact that it is applicable in all Civil posts and services in Govt. of India and not to the All India Services alone, where the practice of State/Jt. Cadres prevails. In this connection it is also important to remember that in Rajiv Yadav's case (Supra) the Hon'ble Supreme Court has held that where a person is appointed to an All india Service having various State cadres, he has no right to claim allocation to a State of his choice or to his home State and the Central Govt. is under no legal obligation to invite options or even preferences from the officers concerned. Rule 5 I.A.S (Cadre) Rules make the Central Govt. the sole authority to allocate members of the service to various cadres, nor is it obligatory for it to frame rules/regulations or otherwise notifying the principles of cadre allocation.

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10. Even so the respondents have by their d.o. letter dated 30/31st May, 1985 laid down the principles of cadre allocation. These principles have been followed from then onwards till date, uniformly in respect of all three All India Services (IAS, IPS, Indian Forest Service), for all State/Joint cadres, despite the existence of the 40 point roster, and as stated earlier, these principles have the approval of the Hon'ble Supreme Court vide their judgment in Rajiv Yadav's case (Supra). When, despite the existence of the 40 point roster the principles of cadre allocation as contained in respondents letter dated 30/31st May, 1985 have continuously been followed, and those principles have the Hon'ble Supreme Court's approval, the question of their application being arbitrary as contended by applicant's counsel and their replacement by the application of the 200 point roster, as contained in DP&T's O.M. dated 22.10.93 does not arise. Hence this ground fails.

11. It was next contended by Shri Tulsi for the applicant that in CSE, 1994 the only insider vacancy was allocated to a reserved category candidate, and again in 1995 the only insider vacancy has been allocated to a reserved category candidate, though as per roster it should have been allocated to a general category candidate. It is argued that the allocating of two reserved category candidates in two successive years

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is violative of the 200 point roster. It has also been contended that this amounts to 100% reservations, which is violative of the reservation policy.

12. We have already held that the 200 point roster has no application while allocating All India Service direct recruits to different State/Jt. Cadres and the same has to be done in accordance with the principles contained in respondents' d.o. letter dated 30/31.5.85 which has been approved by the Hon'ble Supreme Court in Rajiv Yadav's case (Supra), as being a reasonable, and rational method of equitably distributing reserved category candidate between different State/Jt. Cadres. To quote

"....The Principles of allocation as contained in Clause (2) of the letter dated 31.5.85 wherein preference is given to a SC/ST 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 Art. 16(4) of the Constitution of India does not arise....The "Roster System" ensures equitable treatment to both the General candidates and the reserved categories...But for the "Roster System" it would be difficult, rather unfeasible for SC/ST candidates to be allocated to their Home States. The principles of cadre allocation thus ensure equitable distribution of reserved candidates amongst all the cadres".

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13. In the light of the above extracts, preference given to SC/ST candidate for allocation to his own State in two consecutive years cannot be said to warrant any judicial interference, and neither the ruling in R.K.Sabharwal Vs. State of Punjab & ors. 1995 (2) SCC 745 nor UOI Vs. Virpal Singh Chauhan 1995 (6) SCC 684 relied upon by Shri Tulsi, which relate ^{inter alia} to reservation in promotion and not the allocation of cadres in All India Services, advances the applicant's case.

14. In the result, the impugned order warrants no interference. The O.A. fails and is dismissed. No costs.

A. Veda Valli

(DR. A. VEDAVALLI)
Member (J)

/GK/

S.R. Adige

(S.R. ADIGE)
Member (A)