

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 2583/1997

New Delhi this the 6 day of February 1998

HON'BLE DR. JOSE P. VERGHESE, VICE CHAIRMAN (J)

HON'BLE SHRI N. SAHU, MEMBER (A)

Binod Kumar,
C/O Shri P. Kumar,
2036, Delhi Admn. Flats,
Gulabi Bagh,
Delhi-110007.

... Applicant

(By Shri Haryeer Singh, Advocate)

-Versus-

1. Union Public Service Commission,
Dholpur House,
Shahjahan Road, New Delhi
through its Secretary.

2. Deptt. of Personnel & Training,
Ministry of Personnel,
Govt. of India, North Block,
New Delhi-110001 through
Secretary.

3. Ministry of Home Affairs,
North Block, Govt. of India,
New Delhi through
Secretary.

... Respondents

(By Shri R. V. Sinha, Advocate for Respondent No.1,
Shri V. S. R. Krishna, Advocate for Respondents
2 and 3)

O R D E R

Dr. Jose P. Verghese :

Applicant in this case is seeking a direction from this court to set aside the order of the respondents dated 11.7.1997 by which his representation dated 27.6.1997 was rejected. By the said representation, the petitioner had made a request to the respondents for filling up the entry against column at sl. no. 21 whereby the applicant was

(S)

required to declare his Home State. According to the applicant, he had left the said column unfilled and the same was a bona fide mistake and the respondents have rejected his request for filling up the column subsequently. Hence, the present O.A. According to the applicant, that by not filling up the column 21 and thereby no declaration as to what is the Home State, he is likely to be treated as an outsider for the purpose of allocation to the IPS cadre.

2. The case of the applicant is that after several attempts, he finally appeared in the Civil Services 1996 Examination and obtained fourth rank and was allocated to IPS as per his merit and rank. He belongs to the backward category being a member of 'Kushwaha (Koiri)' caste of District Patna, State of Bihar. After he was allocated to IPS he has been sent to probationary training at Mussoorie and according to him among all I.P.S. candidates, he holds the first rank.

3. The applicant submitted that it was a bona fide mistake by which he did not declare his Home State against sl. no. 21 which requires to claim a Home State on the basis of certain other entries. Column 21 states as follows :-

"Having regard to answers given against Columns, 15, 16, 18 and 20 which is the State/Union Territory that you would claim as your home State/U.T."

(9)

4. According to the applicant he had left the said column unfilled while columns 15, 16, 18 and 20 were filled up. Column 15 indicates the place of birth, district and State in which situated; column 16 is to indicate mother tongue; column 18 requires the candidate to give the details of his educational qualifications, including the institutions attended from first standard to the last degree; and column 20 is the details the applicant is required to fill up regarding his father. It is pertinent to mention that sub-column (g) of column 20 requires that the candidate should indicate the district and State to which his father originally belongs and the same also has been left blank.

5. The submission of the applicant is that even if the petitioner has not filled up column 21, a quick perusal and the sum total of the other relevant columns such as 15, 16, 18 and 20 shows that the Home State of the applicant is the State of Bihar. Respondents on the other hand submitted that the particulars of the examination when filled up in column 19, show that the applicant had been studying for B. Tech. since the year 1990 at I.I.T., Delhi. In any event, the case of the applicant is that the absence of filling up column 21 made no material difference for all other purposes except for his I.I.T. degree. He himself and his father belong to Bihar State and belong to OBC category of that State and the permanent address as indicated by the applicant in the application form is one that belongs to State of Bihar.

6. Since the applicant is also claiming reservation and other privileges attached to his status and as belonging to OBC, the said status would only have been available to the applicant if he belonged to Bihar and that would also mean that his home State is Bihar.

7. The applicant further pointed out that column 23 requires the candidate to indicate whether he would like to be considered for allocation to his home State in case he is appointed to IAS or IPS and against this column, the applicant has stated, "yes". The applicant came to know about the fact that he had inadvertently omitted to fill up column 21, and only when he received some communication from the respondents dated 18.6.1997, he came to know about it and immediately a representation was moved on 27.6.1997 and the same was replied to by the respondents by the impugned letter dated 11.7.1997. Aggrieved by the said rejection of filling up the column 21 he had left inadvertently to indicate his home State as Bihar, the applicant has approached this court for relief inter alia, on the ground that the mistake committed by the applicant is only a bona fide one and since the applicant belongs to the OBC category and he domiciled in the State of Bihar, he is entitled to State cadre, i.e., Bihar as an insider and the non-consideration of his bona fide request and thereby rejecting his representation is an action that is illegal, arbitrary and violative of Articles 14 and 16 of the Constitution.

8. After notice, respondents have filed a reply stating that the applicant did secure rank No. 4 in the Civil Services Examination of 1996 and it was on the basis of the preferences indicated by him in the application form for the said Examination that he was allocated to IPS by respondent No.2. It was stated by the respondents that the applicant did not mention any home State in column 21 and in the absence of the said declaration, respondents had no other means left but to hold that the applicant has not opted for his home State and the inevitable conclusion is that he will have to be treated as an outsider. It was also stated that there is no provision for the respondents to treat him with the home State Bihar nor could they allow him to subsequently make the entry at column 21 which would amount to alteration to the original format. In this connection, respondents drew the attention of the court to para 6 of the notice to the candidates which is sent by the Union Public Service Commission along with the application for the Civil Services (Main) Examination. The said relevant para 6 is reproduced herebelow :-

"Candidates are advised to read carefully the Rules of the Examination which include the detailed scheme of the examination as published in the Government of India Gazette Extraordinary dated 9th December, 1995 (Copy enclosed). They should note that no correspondence will be entertained by the Commission from candidates to change any of the entries made in the application form. They should therefore take special care to fill up the application form correctly. No column of the application form should be left blank."

(17)

9. It was further submitted by the respondents that the principles of cadre allocation have been upheld by the Hon'ble Supreme Court in the case of **Rajeev Yadav, IAS vs. Union of India & Ors.**, reported in 1994 (6) SCC 38. To quote :-

"When a person is appointed to an All India Service, having various cadres, he has no right to claim his allocation to a State of his choice or to his Home State. The Central Government is under no legal obligation to have options or have preferences from the officer concerned. Rule 5 of the cadre rules make the Central Government the sole authority to allocate the members of the service to various cadres. It is not obligatory for the Central Government to frame rules/regulations or otherwise notify "the principles of allocation" adopted by the Government as policy."

10. Relying on the said decision, it was submitted that the question whether any discretion is available with the Government to take a State other than mentioned by a candidate against appropriate column of the application form as home State, is not the function of the respondents and if the applicant had committed a mistake of this nature, it is the applicant alone to blame and in the circumstances, the respondents have correctly treated him as having no option for allocation to home State.

11. We have considered the rival contentions of both the parties. It is true that in the case of **Rajeev Yadav (supra)**, the Hon'ble Supreme Court has categorically stated that the Central Government is under no legal obligation to have options " or preferences from the officers concerned. Under Rule 5

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of the cadre rules it is the Central Government who is the sole authority to allocate the members of the service to various cadres. But in the subsequent portion of the same judgment, the Hon'ble Court has laid down that even though the appellant will not have any vested right for allocation, the principles laid down in the guidelines of 1985 will be binding on the respondents and the respondents will have to apply the principles contained in the said binding guidelines and in case the petitioner is able to establish a case that he has been discriminated vis-a-vis the said guidelines, this court can still interfere in the said case on the ground of arbitrary action contrary to the declared guidelines. Unfortunately, that is not the case of the applicant. The applicant has not shown any infraction of any of the principles contained in the said guidelines and in the absence of the same, we are afraid that the ratio of the case of Rajeev Yadav is squarely applicable to the case of the applicant.

12. The case at hand is one of bona fide vs. bona fide. It is the bona fide mistake committed by the petitioner which is the basis on which he is seeking a mandamus from the respondents for alteration in the Form by filling up column 21. In the absence of any allegation of violation of any rule, by the respondents or arbitrariness in action, or any mala fide, this court cannot interfere and proceed to examine its power of judicial review.

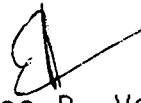
13. The applicant at page 3 of the paper book stated that he had incidentally forgotten to fill up column 21 in the original form. It was further submitted by the applicant that he came to know about this bona fide mistake only when the respondent No.1 sent a letter to revise the preferences of Services with respect to a particular post, namely, Dy. S.P., C.B.I.

14. Even assuming that the petitioner had bona fide, and inadvertently left the column unfilled without indicating his option for home State, the action of the respondents cannot be faulted. The respondents seem to have followed the guidelines prescribed for allocation, namely, the one issued in the year 1985 and under such circumstances that the applicant has not shown any other additional obligation on the part of the respondents either, to arrive at on their own what would be the home State of the applicant nor any reason why the respondents should have permitted the applicant at such later period to fill up the column 21 in spite of the specific warning given in the form itself; neither a right available to the applicant for filling up the column subsequently has been shown to be available to him under any rules, nor any corresponding duty has been shown to exist with the respondents to allocate

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the home State on the basis of other entries to the applicant as the State of Bihar. In the absence of the same, we are afraid this O.A. merits rejection and no order as to costs. Ordered accordingly.

Narasimha
(N. Sahu)
Member (A)


(Dr. Jose P. Verghese)
Vice Chairman (J)

/as/