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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.564/94

New Delhi: this the 29th day of July, 1999.

HON'BLE MR. S. R. ADIGE VICE, CHAIRMAN (A).

HON'BLE MR. P. C. KANNAN, MEMBER (J)

Ashwini Kumar Rai,

IAS Probationer,

Collectorate,

Palghat

..... Applicant.

(By Advocate: Shri Vikas Singh with
Shri Yunus Malik)

Versus

Union of India
through

the Secretary,

Dept. of Personnel & Training,

New Delhi

..... Respondents.

(By Advocate: Shri V. S. R. Krishna)

ORDER

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

In this OA, initially filed before CAT, Ernakulam Bench in 1991 and subsequently transferred to CAT Principal Bench and renumbered as 564/94, applicant impugns respondents' OA letter dated 22.11.90; communication dated 12.11.91, and notification dated 30.12.91, to the extent it allocates him to Kerala State Cadre, and seeks allocation to Madhya Pradesh State Cadre with consequential benefits.

2. Heard both sides.

3. Admittedly applicant appeared in CSE, 1989 and was appointed to the IAS as a direct recruit in 1990 securing 52nd position, in the all India Merit List. Respondent No.2 (Ms. Sarada Muralidharan) who belong to Kerala State secured the 51st position immediately above him. There were 4 vacancies in

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Kerala State to be filled up on the basis of CSE, 1989, out of which one was for an insider and 3 for outsiders. Cadre allocation for direct recruit IAS probationers in a particular year is made on the basis of a roster system, in accordance with the cadre allocation guidelines laid down in Rule 5 IAS (Cadre) Rules, 1954 read with Secretary D.P & T's D.O. letter dated 30/31.5.85 (Annexure-A-11). As per cadre allocation chart for 1990 batch candidates annexed by applicant with his D.A (Annexure-A-2.5), which is also admitted by respondents, the candidate who secured allocation to Kerala State, that year against the sole vacancy for an 'insider' secured a merit position much above Respondent No.2. When it came to the turn of Respondent No.2 for allocation it was found that she was being allocated to her Home State of Kerala. In such a situation, the guidelines contained in D.O. letter dated 30/31.5.85 provides that the candidate next below should be exchanged with him/her. Accordingly as applicant was next below Respondent No.2, he was allocated to Kerala State Cadre, while Respondent No.2 was allocated to M.P. State Cadre, where applicant would have been allocated, but for the above exchange.

4. It may be mentioned that the applicability of the cadre allocation guidelines as provided by Rule 5 IAS (Cadre) Rules read with D.O letter dated 30/31.5.85 has been upheld by Hon'ble Supreme Court in UOI Vs. Rajiv Yadav 1994(6) SCC 38.

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5. Respondent No.2 had filed OA No.2581/92 seeking cadre allocation to Kerala State instead of M.P. State. By an interim order in that OA she was posted to Kerala State provisionally. The aforesaid OA was disposed of by CAT, Principal Bench by its order dated 24.10.97. By that order, her allocation to M.P. State Cadre was quashed and set aside on the ground that there had been no consultation with M.P. State Govt. within the meaning of Rule 5(1) IAS Cadre Rules and respondents were given liberty to pass fresh orders after consultation with the State Govt. in accordance with law. Meanwhile till such time as such orders were passed, she was not to be disturbed from Kerala State, and subject to those orders her services in Kerala State were to be treated as regular service with all consequential benefits.

6. Official Respondent (UOI) filed RA No.41/98 against that order dated 24.10.97 which we are informed was dismissed.

7. Meanwhile respondents' counsel Shri VSR Krishna conceded that respondents had not yet passed orders, liberty in respect of which had been given to them vide CAT, PB's order dated 24.10.97. He states that respondents were awaiting a decision on the RA which was disposed of only recently.

8. Shri Vikas Singh has argued that applicant was allocated to Kerala State only in exchange for Respondent No.2 who could not be allocated to Kerala State as per approved guidelines, but now that Respondent No.2 has herself been allocated to Kerala

State by court orders, there is no further reason to continue to retain applicant in Kerala State, and he should now be allocated to Madhya Pradesh State where he would in any case have been allocated, but for the exchange.

9. We are unable to agree with this reasoning. Applicant was allocated to Kerala State Cadre in accordance with the cadre allocation guidelines contained in Rule 5 IAS (Cadre) Rules read with O.O. letter dated 30/31.5.85, which have been approved by the Hon'ble Supreme Court in Rajiv Yadav's case (supra). Merely because Respondent No.2 with whom he was exchanged in accordance with those guidelines had filed O.A.No.2581/92, in which, after granting of interim directions that she should be posted to Kerala State provisionally, that OA was disposed of by order dated 24.10.97 quashing her allocation to M.P. State Cadre and holding that her continuance in Kerala State Cadre should not be disturbed till respondents passed fresh orders in accordance with law after consulting ~~the~~ ^{the} State Govt., does not give applicant an enforceable legal right to compel official respondents to allocate him to M.P. State Cadre, which also does not happen to be his Home State (Bihar). It must be remembered that official respondents are yet to pass fresh orders regarding the cadre allocation of Respondent No.2, liberty in respect of which was expressly given to them by order dated 24.10.97, and the aforesaid order dated 24.10.97 does not give applicant legally any cause of action.

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10. Shri Singh also argued that M.P. State is a Hindi Speaking State and applicant's mother tongue is Hindi, which would be a facilitating factor in administration, but this consideration is not relevant in cadre allocation which has to be done strictly in accordance with the aforementioned guidelines, which have been approved by the Hon'ble Supreme Court.

11. No other grounds were pressed.

12. In the result, the OA warrants no interference. It is dismissed. No costs.

P. C. Kannan
(P. C. KANNAN)
MEMBER(J)

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN(A).

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