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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1476/1994

New Delhi, this 23rd day of March, 1995

Shri Justice S.C.Mathur, Hon'ble Chairman
Shri P.T.Thiruvengadam, Hon'ble Member(A)

Miss Taruna Kumari
d/o Shri Justice L.N.Prasad
20, Strand Road
Patna .. Applicant

By Advocate Shri S.S. Tewari(not present)

versus

Union of India, through

1. Secretary
Min. of Personnel, PG & Pensions
North Block
New Delhi
2. Secretary
Union Public Service Commission
Dholpur House
Shahjahan Road, New Delhi .. Respondents

By Advocate Shri V.S.R. Krishna

ORDER(oral)

Shri Justice S.C. Mathur

The case has been taken up on second call. No one has appeared for the applicant, though the name of Shri S.S.Tewari, through whom this application, has been filed appears in the cause list. Shri V.S.R. Krishna appeared for the respondents and took us through the record. We have heard him and we proceed to decide the case on merits.

2. The applicant, who was a candidate at the combined Civil Services Examination of 1991 conducted by the Union Public Service Commission is aggrieved by her allocation to Group B service
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instead of Group A service. The applicant has claimed that her position in the merit list was at Sl.No.495 and a candidate at Sl.No.500 has been allocated to Group A service while she has been allocated to a Group B service as Customs Appraiser. Aggrieved by this, the applicant has prayed that the respondents may be directed to allocate her to a Group A service.

3. The factual position asserted by the applicant has ^{not} been disputed on behalf of the respondents. The respondents pointed out that the examination was held in accordance with the notification issued by the Central Government which contained the rules for conducting the examination and for allocation of service. Extracts from the rules have been reproduced in the reply. In the notification, it was provided that a candidate while submitting his/her application, shall indicate the order of preference for the various services/posts for which the examination was being conducted. The relevant clause also contains note advising the candidate to indicate all the services/posts in the order of preference in his/her application form. It was also provided "in case he/she does not give any preference for any service/post or does not include certain services/posts in the application form, it will be assumed that he/she has no specific preference for those services/posts, and in that event he/she shall be allocated to any of the remaining services/posts in which there are vacancies after allocation of candidates according

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to the services/posts of their preferences. In making such allocation the candidate shall be considered first for Group A services/posts and then for Group B services/posts."

4. It is stated in para 7 of the reply that the applicant did not cover all the services in her order of preference and instead covered only 12 services mentioned in Annexure R-1 to the reply. She could not be allocated to any of those services as those services were covered also in the preferences indicated by candidates higher in merit than her and the vacancies in those services came to be occupied by them. It is claimed by the respondents that the allocation of services has been made in accordance with the provision contained in the Note extracted hereinabove.

5. The factual position stated in the reply has not been controverted by the applicant through any rejoinder.

6. From the material on record it is apparent that the only point of applicant's grievance is that someone who was lower in merit to her got allocation to a better service while she, despite her higher merit has been relegated to an inferior service.

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7. In view of the fact that allocation of service was to be made in accordance with the rank and preference simultaneously, no exception can be taken by the applicant to the allocation to a lower service. She could not be allocated the services of her choice because those services were allocated in accordance with the choice of the candidates of higher merit. The dispute raised by the applicant is covered by the judgement of their Lordships of the Supreme Court in UOI Vs. M.V.V.S.Murthy (1988-SCC(L&S) 213) wherein it has been held "If ranking alone is to be the test, preferences would have no meaning. On the other hand, the procedure that preferences are acceptable with reference to the position in the final list till vacancies in the services preferred are exhausted is the most logical one and meets the requirements of the scheme. Merely because the respondent was placed at the 280th place in the merit list and some one else placed at No.291 was being offered the Indian Police Service in keeping with his preference, would not give the respondent any cause of action".

8. In para 4.8 of the application, the applicant has asserted that it was a mistake on her part not to cover all the services in her order of preference and that when she realised the mistake, she applied for correction but the same was not allowed. Her letter for correction was sent on 3.10.92. The results were published on 19.9.92. Notification allowed change or alteration of

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option only within 10 days from the date of publication of the final results of the examination in the Employment News. Admittedly, her claim for alteration in option was not made within the period prescribed. In view of the position obtaining under the rules, there is no error in not entertaining applicant's request for alteration of preferences.

9. In view of the above, the application lacks merit and is hereby dismissed with no order as to costs as no one appeared for the applicant. Interim order, if any operating, shall stand discharged.

P. T. Thiruvengadam

(P.T. THIRUVENGADAM)
Member (A)
23.3.1995

S. C. Mathur

(S.C. MATHUR)
Chairman
23.3.1995

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