

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO. 213/2000

New Delhi this the 11th day of May, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

N. Manjunatha Prasad S/O D. Narayan,  
R/O 111, 4th Main, 4th Cross,  
Mathikere, Bangalore-560054.  
Presently Additional District  
Magistrate & Collector, Halda,  
Distt. Midnapur, West Bengal. ... Applicant

( By Shri Ramakant Khalap along with Shri Vikas  
Singh and Shri Reetesh Singh, Advocates )

-Versus-

1. Union of India, through  
Secretary,  
Ministry of Personnel, Public  
Grievances & Pensions,  
Dept. of Personnel & Training,  
North Block, New Delhi.
2. The State of West Bengal  
through its Chief Secretary,  
Writer's Building,  
Calcutta.
3. The State of Karnataka  
through its Chief Secretary,  
Vidhana Soudha,  
Bangalore. ... Respondents

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

O R D E R (ORAL)

Shri V. K. Majotra, AM :

The applicant has challenged order dated 18.1.1995 issued by the respondent No.1 allocating cadres to the Indian Administrative Service (IAS) *dt. 24.10.97* *b2* probationers of the 1994 batch, and the letter of the Respondent No.1 *conveyed through* *b2* National Commission for Scheduled Castes and Scheduled Tribes *letter. b2* dated 27.1.2000 under which they *Commission b2* have informed the applicant about the refusal of the respondent No.1 in implementing the findings of the Commission.

2. The applicant is a successful candidate in the Civil Services Examination, 1993 wherein he was placed at sl. no.370 in the All India merit list prepared by the Union Public Service Commission (UPSC). He is a member of the Scheduled Caste and in accordance with the reservation provided for Scheduled Castes and Scheduled Tribes was offered appointment to the IAS. He claims to be the only person selected from the State of Karnataka to the IAS in the 1994 batch. According to the applicant, the State of Karnataka in terms of Rule 5(1) of the Cadre Rules requested the Central Government to allocate four officers of 1994 batch in the IAS to the State of Karnataka. However, the Central Government unilaterally decided to allocate only two officers to Karnataka against the demand <sup>for</sup> ~~of~~ four officers. He has further stated that as an SC candidate from Karnataka <sup>allocated</sup> he was entitled to be placed as an insider candidate against the insider reserved vacancy to the Karnataka cadre in the roster system being followed by respondent No.1. However, only two vacancies were indicated by the Central Government for Karnataka and both of them were earmarked for outsider candidates. The applicant made representation (Annexure-II) dated 31.10.1994 alleging that over a period of time the insiders/outsiders vacancies ratio in Karnataka has not been maintained properly and to rectify the imbalance it was necessary that at least one if not both vacancies should be earmarked for the insiders quota. He has pointed out that respondent No.1 in his statement in the Lok Sabha (Annexure-III) on 4.9.1991 in reply to an unstarred question No.5685 informed the House that the insiders to outsiders ratio is to be

(b)

maintained as 1:2 over a period of time if not in each allocation. According to the applicant from 1984 to 1994, i.e., during the period when this roster allocation system has been in vogue, respondent No.1 allocated 42 outsiders to the State of Karnataka against 16 from the insiders quota (Annexure-IV). The applicant has alleged that respondent No.1 has committed a grave mistake in not allocating a member from the reserved category to the State of Karnataka during the last four years including 1994. During that period a total of 9 candidates were allocated to the State of Karnataka and not even one of them was from the reserved category. In the system of allocating reserved candidates to various States, the respondents compute 22.5% of the vacancies arising every year and round off the same by taking above 0.5 as one and below 0.5 as zero. Among the total vacancies for the year 1994 out of the 80 candidates who were selected in the IAS, 22.5% works out to 18 vacancies for the reserved categories. On that basis, to illustrate from the chart given in paragraph 4(xiii) of the O.A., total number of vacancies in Karnataka and Rajasthan have been allocated as 2 and 5 respectively. 22.5% for SC and ST categories works out to 0.45 and 1.125 for Karnataka and Rajasthan respectively. Thus by rounding off Karnataka does not get any reserved category candidate and Rajasthan gets one. Again, by following this procedure, a total of 15 candidates could be selected to various States from reserved categories. Whereas 18 vacancies on the basis of 22.5% for SC/ST categories could be earmarked for the reserved categories, only 15 could be allocated and three reserved candidates still remained for such allocation from the reserved categories.

3. The applicant has further pointed out that the respondents while operating the roster are allocating candidates in terms of the roster and then work out the SC/ST allocation separately after finalisation of the main roster; this practice is discriminatory and arbitrary, as it is impossible to reconcile the two rosters by doing justice to both category candidates simultaneously. Earlier on the applicant had filed O.A. No.713/95 claiming his allocation to the State of Karnataka instead of West Bengal in the IAS which was dismissed as withdrawn as the applicant had filed a representation dated 7.6.1996 before the National Commission for Scheduled Castes and Scheduled Tribes and he was hopeful of obtaining relief from them. As per order dated 18.7.1996 in the said O.A. the applicant was given liberty to file a fresh O.A. as prayed for. The <sup>cive</sup> findings of the Commission dated 10.9.1997 at Annexure-XVI. Ultimately, the applicant has been informed by the Commission vide their letter dated 27.1.2000 that his case has been rejected by the Department of Personnel & Training vide their memo dated 24.10.1997. The applicant has pleaded that the Central Government had not consulted the State of Karnataka for determination of the number of officers to be allocated to the State of Karnataka from IAS, 1994 batch. They decided to allocate only two officers to the State of Karnataka against a requirement of the State for four officers. There has been a huge shortfall of insider candidates ~~as~~ well as of the reserved candidates in the State of Karnataka and the applicant being the only insider and

SC candidate in the 1994 batch was not allocated to the State of Karnataka on ground of being an insider as well as on the ground of being a reserved category candidate. The applicant has sought allocation to the State of Karnataka in the IAS instead of West Bengal.

(9)

4. In their counter, the respondents have placed reliance on the findings in the case of **Union of India & Ors. v. Rajiv Yadav & Ors.**, 1994 SCC (L&S) 1265 wherein the Hon'ble Supreme Court has held as under :

"6. We may examine the question from another angle. A selected candidate has a right to be considered for appointment to the IAS but he has no such right to be allocated to a cadre of his choice or to his home State. Allotment of cadre is an incidence of service. A member of an all-India service bears liability to serve in any part of India. The principles of allocation as contained in clause (2) of the letter dated 31-5-1985, wherein preference is given to a Scheduled Caste/Scheduled Tribe 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 Article 16(4) of the Constitution of India does not arise. It is common knowledge that the Scheduled Caste/Scheduled Tribe candidates are normally much below in the merit list and as such are not in a position to compete with the general category candidates. The "Roster System" ensures equitable treatment to both the general candidates and the reserved categories. In compliance with the statutory requirement and in terms of Article 16(4) of the Constitution of India 22 1/2% reserved category candidates are recruited to the IAS. Having done so both the categories are to be justly distributed amongst the States. But for the "Roster System" it would be difficult rather impossible for the Scheduled Caste/Scheduled Tribe 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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5. According to the respondents, allocation of the IAS officers borne on State/Joint Cadres is required to be done to various cadres on the basis of set principles. The vacancies to be filled in each cadre are divided into two categories, namely, those to be filled by general candidates and those to be filled by reserved candidates. The vacancies to both categories are further divided between insiders and outsiders. The respondents have averred that cadre allocation is an incidence of service and it is not obligatory to strictly maintain the prescribed percentage while distributing the vacancies among various cadres. On the basis of 40-point roster the total number of reserved vacancies to be filled on the basis of Civil Services Examination, 1993 were 18 (12 SC and 6 ST) out of the 80 vacancies. However, on the basis of calculation made for each cadre @ 22.5% the total reserved vacancies were worked out to 15 against the availability of 18 reserved candidates. The five cadres in which the percentage shortfall of the reserved candidates was highest on the basis of the last five years backlog calculated at the relevant point of time, <sup>are</sup> ~~was~~ as follows :

S.No.	State/ Joint Cadres	Total No. of vacancies filled during 89-93 (CSE 1988 to 1992)	22.5% of total vacancies for SC/ST Candida- tes	Vaca- ncies filled by SC/ Candida- tes	Back- log filled by SC/ Candida- tes	Back- log rounded off	%age short- fall
1.	Sikkim	4	0.9	0	0.9	1	25.00
2.	W.Bengal	30	6.75	5	1.75	2	6.67
3.	Gujarat						6.25
4.	Rajasthan	16	3.6	3	0.6	1	6.25
5.	Karnataka	18	4.05	3	1.05	1	5.56

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6. The methodology thus followed by the Union of India is uniformly applied. In the end the respondents have maintained that allocation of the applicant to the West Bengal cadre has been quite in order <sup>as per 11</sup> of the prescribed procedures.

7. In the rejoinder, the applicant has also relied upon the findings in the case of Rajiv Yadav (supra) emphasising just distribution of the candidates of general and reserved categories on the basis of roster. The import of the roster system according to the applicant is that there must be an endeavour at the time of allocation of cadres to ensure that SC/ST candidates are allocated to their home States. According to the principles of cadre allocation, the vacancies to be filled in each cadre are divided into two ~~cadres~~ <sup>Categories 11</sup>, namely, those to be filled by general candidates and those to be filled by reserved candidates. The reserved vacancies in each State cadre are divided between insiders and/or outsiders as per separate 30-point roster meant for reserved candidates in each State cadre. Thereafter, the reserved insider and/or outsider vacancies are subtracted from the total insider and/or outsider vacancies. The remaining vacancies are for general categories. In the State of Rajasthan as admitted by the respondent No.1, there were a total of 16 vacancies during the five year period, and out of 16, 3 were filled with persons from the reserved category. These 3 vacancies constitute 18.75% of 16. therefore, 18.75% reserved for SC/ST candidates has been maintained against the required 22.5%. Hence, the backlog is  $(22.5\% - 18.75\%) = 3.75$ . In the State of

(21)

Karnataka again, ~~as~~ admitted by respondent No.1, there were a total of 18 vacancies during the 5 year period, and out of 18, 3 were filled from reserved categories. <sup>h</sup> These 3 vacancies constitute 16.66% of 18. Therefore, 16.66% ~~reserved~~ <sup>-ation</sup> for SC/ST candidates has been maintained against the required 22.5%. Hence, the backlog is  $(22.5\% - 16.66\%) = 5.84$ .

8. We have heard the learned counsel of both parties and examined the material available before us carefully. The learned counsel for the applicant has sought allocation of the applicant being a reserved category candidate of 1994 batch to Karnataka cadre in place of the present West Bengal cadre, contending that whereas under Rule 5(1) of the Cadre Rules the Central government should hold consultations with the State government for allocation of number of IAS officers in a particular year, however, the Central Government unilaterally chose to allocate only two officers against a demand of four officers to the State of Karnataka. Against a percentage shortfall of 6.25 and 5.56 as calculated by the Central Government in respect of the State of Rajasthan and Karnataka respectively, the learned counsel of the applicant contended it to be 3.75 and 5.84 for Rajasthan and Karnataka respectively. According to him, the Central Government have chosen to round off the backlog at a wrong stage of calculations. In this view of the matter, since the percentage backlog in the case of Karnataka is larger than that of Rajasthan, the third leftout reserved vacancy should have fallen to the share of Karnataka instead of Rajasthan, whereby the applicant would have been benefited and allocated to

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the Karnataka cadre. According to him, even if 2 vacancies were taken into consideration for Karnataka, applying a ratio of 1:2 between insiders and outsiders as per the 30-point roster in which the first vacancy goes to outsider, the second to insider and the third again to outsider, i.e., O-I-O, O-I-O, O-I-O, and so on, the applicant would have got the second vacancy in Karnataka cadre and if that was not done, Karnataka would not get an insider for the next several years. (B)

9. It is interesting that both the sides have relied on the findings in the case of **Rajiv Yadav** (supra) and accepted that the roster system ensures equitable treatment to both the general and the reserved category candidates, and if the roster system maintained in accordance with the principles of cadre allocation was given as go-by, equitable distribution of reserved candidates amongst all the cadres will not take place.

10. As to the contention of the applicant regarding unilateral allocation of vacancies to different States in a year, there is no gainsaying that there should be an effective consultation between the Centre and the States on this issue. It is true that some times a particular State may demand a very large number of officers in a particular year. However, that many number of officers on the basis of the recruitment made in that particular year may not be available for allocation. However, though the final decision in this regard may rest with the Central Government, there is a definite need for greater consultation and exchange of views between the

Centre and the States than what appears to have taken place in the instant case. In the system of allocating reserved candidates to various States the respondents compute 22.5% of the vacancies arising every year and round off the same by taking above 0.5 as one and below 0.5 as zero.

Amongst the total vacancies for the year 1995 out of a total of 80 candidates selected in the IAS 18 vacancies fall to the share of the reserved categories on the basis of 22.5% reservation. On this basis the allocation made in the year 1994 was as follows :

SL. No.	Name of the State	Total No. of Vacancies	22.5% for SC/ST	Rounding Off
1.	Andhra Pradesh	4	0.9	1
2.	Assam-Meghalaya	6	1.35	1
3.	Bihar	3	0.675	0
4.	Haryana	2	0.45	0
5.	Himachal Pradesh	2	0.45	0
6.	Jammu & Kashmir	2	0.45	0
7.	Karnataka	2	0.45	0
8.	Kerala	2	0.45	0
9.	Madhya Pradesh	9	2.025	2
10.	Maharashtra	8	1.8	2
11.	Manipur-Tripura	5	1.125	1
12.	Nagaland	1	0.225	0
13.	Orissa	4	0.9	1
14.	Punjab	4	0.9	1
15.	Rajasthan	5	1.125	1
16.	Sikkim	2	0.45	0
17.	Tamil Nadu	6	1.35	1
18.	AGMUT	5	1.125	1
19.	Uttar Pradesh	4	0.9	1
20.	West Bengal	4	0.9	1
Total Vacancies			15	"

Thus, a total of 15 candidates from reserved categories were allocated to ~~each~~ cadre and the balance 3 (18-15) remained for such allocation. The respondents increased one vacancy each in Sikkim, West Bengal and Rajasthan on the basis of the last five years backlog. On the basis of the methodology of

computing percentage shortfall no vacancy came to the share of Karnataka. According to the respondents the total number of vacancies allotted to Karnataka is 18 out of which 3 candidates belong to the reserved category; 22.5% of 18 comes to 4.05, rounded off to 4. Thus the shortfall is 5.56% whereas in the case of Rajasthan the shortfall comes to 6.25%. Thus the shortfall in the case of Rajasthan being greater than that of Karnataka, the additional third vacancy was allocated to Rajasthan. According to the applicant, the methodology of calculating the backlog or percentage shortfall in respect of SC/ST vacancies is defective. He claims that in the State of Rajasthan as admitted by respondent No.1 there were a total number of 16 vacancies during the five year period [1989-1993 (CSE-1988-92)]. Out of 16, 3 were filled from the persons from reserved category. These 3 vacancies constitute 18.75% of 16. Therefore, 18.75% reservation for SC/ST candidates has been maintained against the required 22.5% and hence, the backlog is  $(22.5\% - 18.75\%) = 3.75\%$ . In the State of Karnataka there were a total of 18 vacancies during the five year period and out of 18, 3 were filled with reserved category candidates. These 3 vacancies constitute 16.66% of 18. Therefore, 16.66% reservation for SC/ST candidates has been maintained against the required 22.5%. Hence, the backlog is  $(22.5\% - 16.66\%) = 5.84\%$ . The rationale that cannot be faulted has been provided on behalf of the applicant in the methodology of computing percentage backlog/shortfall as described above. The applicant has looked at the calculations from another angle as well. As per the table given in para 5 above, in column 6, i.e., backlog in the case

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of Rajasthan against the required 3.6 figure 3 vacancies have been filled but in the case of Karnataka against the required 4.05 figure, 3 vacancies have been filled. Hence, in terms of vacancies the backlog in Rajasthan is 0.6 and that in Karnataka is 1.05. This backlog when converted into percentage will be 3.75% for Rajasthan and 5.84% for Karnataka. The applicant has stated that the respondent No.1 has performed a wrong calculation by rounding off the backlog in column 7 itself and finally calculating the percentage shortfall shown in column 8 on the basis of the rounded off figures in the previous column, thereby in the case of Rajasthan the figure 0.6 was rounded off to 1, thereby adding 0.4 to 0.6 to make it 1. In percentage term 0.4 comes to 2.5% i.e.,  $(0.4/16 \times 100 = 2.5\%)$ , i.e., an excess 2.5% is added to the percentage backlog of Rajasthan to make it 6.25%. If the error created due to rounding off is taken into account and subtracted finally the percentage backlog would be  $(6.25\% - 2.5\%) = 3.75\%$ . Similarly, in the case of Karnataka the figure 1.05 is rounded off to 1, thereby deleting 0.05 to make it 1. In percentage terms 0.05 comes to 0.28% i.e.,  $(0.05/18 \times 100 = 0.28\%)$ . Hence, the final percentage backlog is actually less by 0.28%. But if the error created due to rounding off is taken into account and added finally the percentage backlog would be  $(5.56\% + 0.28\%) = 5.84\%$ . Since the intention is to find out the percentage backlog or shortfall of reserved candidates in a particular State, using absolute backlog, i.e., 0.6 and 1.05 the percentage backlog should have been calculated. There was no occasion to round off 0.6 to 1 and 1.05 to 1. The applicant has further stated

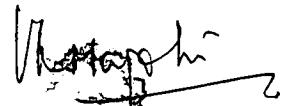
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that in terms of the policy of respondent No.1 even if the rounding off has to be done, then the error created due to rounding off should be compensated in the last stage, i.e., during the findings of percentage backlog.

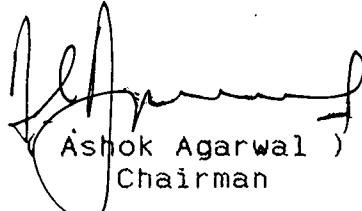
11. We have seen that due to rounding off the total number of vacancies for SC/ST on the basis of 22.5% of the total vacancies in each State cadre put together comes to 15 only thereby creating a rounding off error of 3 vacancies. To compensate for the rounding off error of 3 vacancies which are lost by SC/ST categories have to be made good by allotting these vacancies to three States where the percentage backlog or shortfall has been the largest. We have also seen, as stated above, that Karnataka had greater percentage backlog/shortfall of reserved candidates than Rajasthan. Hence, the inevitable conclusion that can be drawn is that one of the three reserved vacancies consequent to the rounding off error should have been allotted to Karnataka and not Rajasthan. If that were so that additional reserved vacancies would definitely benefit the applicant as he is the only insider candidate from the State of Karnataka. Whereas the applicant may be accorded his claim, it would not be necessary to disturb the additional reserved vacancy already allotted to Rajasthan against which an officer must have been accommodated at the relevant time.

12. Having regard to the facts and as discussed above circumstances of the case, the O.A. succeeds and the respondents are directed to allocate the applicant to

the State of Karnataka in the I.A.S. in place of West Bengal within a period of two months from the receipt of a copy of this order. However, it is made clear that the methodology adopted in this order for calculating the percentage shortfall of the reserved candidates in various States should be given prospective effect, so that the cadre allocations made hitherto do not lead to a large scale re-arrangement. There shall be no order as to costs.

  
( V. K. Majotra )

Member (A)

  
( Ashok Agarwal )  
Chairman

/as/