

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1139/ 1989
T.A. No.

DATE OF DECISION August 1, 1989.

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Harvinder Singh Sohal _____ Applicant (s)

In person _____ Advocate for the Applicant (s)

Versus
Union of India & Others _____ Respondent (s)

Shri P.H. Ramchandani _____ Advocate for the Respondent (s) No.1 & 2.
Respondent No.3 in person.

CORAM :

The Hon'ble Mr. P.K. Kartha, Vice Chairman.

The Hon'ble Mr. P.C. Jain, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. To be circulated to all Benches of the Tribunal ? *No*

JUDGEMENT

(Judgement of the Bench delivered
by Hon'ble Shri P.C. Jain, Member)

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the Notification dated 16.12.1988 in which he has been allocated to the Union Territories cadre of the Indian Forest Service and respondent No.3 has been allocated to the Punjab cadre. He has made a specific prayer that respondent No.1 be directed to allocate the applicant to the State of Punjab as an 'insider' as per the principles of allocation of cadre to the members of Indian Forest Service.

2. The facts of this case, in brief, are as follows: -

The applicant successfully competed at the Indian Forest Service Examination, 1986 and ranked 56th therein in the order of merit. He was appointed to the Indian

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Forest Service on probation with effect from 6.7.87. Respondent No.3 Shri Rajesh Kumar Chaudhry also successfully competed in the same Examination and was placed higher than the applicant in the order of merit. He has been allocated to the State of Punjab. The applicant's case is that in his application for admission to the Examination, he had declared Punjab as his Home State and had also given his consent for allocation to his Home State. It is further contended that the applicant was at the top amongst the candidates who belonged to and had opted for allocation to the State of Punjab. On the other hand, Respondent No.3 had declared Delhi as his Home State and had also opted for the same. Feeling aggrieved by the impugned order of allocation (Annexure A-1 to the application), he represented to Respondent No.1, who is the cadre controlling authority, but no reply has been received. His representation at Annexure A-3 to the application has also not been replied.

3. The Principles of Allocation of Members of I.A.S. to Various States / Joint Cadres have been given in the annual report of the Ministry of Personnel, Public Grievances and Pensions for the year 1986-87, extracts from which have been enclosed as Annexure A-5 to the application. There is no dispute that the same principles apply mutatis mutandis to the members of the Indian Forest Service. According to these principles, the zonal system of allocation, which was introduced in 1979 was replaced by roster system of allocation from 1984 Examination. The successful candidates are classified into 'insiders' and 'outsiders', the ratio of outsiders to insiders being 2:1 in the direct recruitment quota. Allocation of 'insiders' is strictly according to their ranks, subject to their willingness to be allocated to their Home States. The other points are not relevant for the purposes of this application.

4. As stated above, the applicant claims to be an 'insider' as according to him, he belongs to the State of Punjab and had opted for allocation to that State, and out of the candidates

who belonged to the State of Punjab and had also opted for allocation to the State of Punjab, he ranked first, and therefore, according to the Principles of Allocation (Annexure A-5 to the application), he is entitled to be allocated to Punjab as an 'insider'. It is further contended that since Respondent No.3 did not belong to Punjab, nor had he opted for allocation to Punjab, he could not be allocated to Punjab as an 'insider'. He has also taken the plea that out of the four vacancies for that year for Punjab, two 'insiders' should be allocated instead of one. He has also stated that there was no meaningful consultation with the State Government of Punjab as provided for in the Indian Forest Service (Cadre) Rules, 1966. He further states that he has been given a discriminatory treatment which is violative of Articles 14 and 16 of the Constitution of India.

5. The respondents have disputed the claim of the applicant as well as the claim of Respondent No.3. Their case, in brief, is that when applications were invited by the Union Public Service Commission in March, 1986 for the 1986 Examination, the system of allocation was 'Limited Zonal Preferences System'. In this system, candidates were required to choose, in order of preference, geographical zones for their allocation and further to choose two States/Cadres in each zone to which they intend to be allocated. The applicant, in his topmost option in the application form had opted for Zone II (comprising U.P., M.P., Bihar and Orissa) and in this zone, he chose the States/Cadres of U.P. and M.P. Similarly, Respondent No.3 gave his topmost option for Zone I (comprising J&K, Punjab, U.T.s, Haryana and H.P.) and in this zone, he chose J&K and H.P. States/Cadres. Although the candidates are not normally allowed to change their option indicated by them in the application forms, yet in the present case, Respondent No.2 as in-charge of the policy matters in such cases, decided to change the system of allocation from the 'Limited Zonal

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Preferences System' to the 'Roster System' of allocations and this necessitated for calling for fresh options from candidates as to whether they chose to be allocated to their home-States or not. In pursuance of this, the applicant declared that he belonged to Punjab and he would like to be considered for allocation to the Cadre of the State to which he belonged, namely, Punjab. Respondent No.3 declared that he belonged to Delhi and he would like to be considered for allocation to the Cadre of Union Territories to which he belonged, namely, Delhi.

6. The respondents have also contended that since one-third of the vacancies are allocated to probationers belonging to a particular State, greatest care is taken to ensure accuracy in determining the home-State of the probationers, and, in particular, cases in which the States to which the probationers belong seem to be different from the linguistic origin, which is stated to be at the root of the principles of allocation, of the candidates, and where it is evident that a mis-statement has been made as to the State to which the candidate belongs, appropriate corrections are carried out after due consideration to the relevant factors. In the process of this scrutiny, it was felt to go deeper into the claims of the candidates as to their home-States in four cases in all which included the applicant and Respondent No.3. The entries that were considered relevant and were taken into account in the case of the applicant and respondent No.3 were (1) father's State, (2) place of birth, and (3) domicile. The applicant's father's state was Punjab, his place of birth was U.P. and his domicile was also U.P. In the case of respondent No.3, his father's State and his own place of birth were Punjab and domicile was Delhi. Based on this exercise, the home-State of the applicant and also of respondent No.3 was treated as Punjab. Of the four vacancies in the Punjab cadre, one was reserved vacancy and of the remaining three vacancies, one was to go to 'insider' and the two to the 'outsiders'. Respondent No.3, being higher in the merit list in the results of the Examination, was allocated to Punjab as an 'insider' and

the applicant could not be allocated to Punjab. It is also their contention that it was neither feasible, nor administratively expedient to allow the candidates a fresh option and the most expedient course was to treat the probationers as opting for allocation to, or opting for allocation out of their home-States as was rightfully decided by Respondents No.1 and 2, depending on whether the probationers themselves had opted for or against allocation to their home-States as stated, or as mis-stated, as the case may be. In other words, if the probationer did not opt to go to what was in actual fact his home-State, while he had the option so to do, his option could only be treated as willing for allocation to his own home-State, as deduced from available attendant facts and circumstances. They have rebutted the claim of the applicant on the principle of allocation by which he has claimed two posts for the 'insiders' for Punjab.

7. We have heard the applicant and Respondent No.3, who appeared in person and the learned counsel for Respondents No.1 and 2. Respondent No.4 did not enter appearance. We have also perused the records of the case, and we feel that the case can be disposed of at the admission stage itself.

8. The principles of allocation of cadre have not been challenged either by the applicant or by respondent No.3. These principles are not statutory rules. Allocation is made in terms of the provision of Rule 5(1) of the IFS (Cadre) Rules, 1966 which is as under: -

"5. ALLOCATION OF MEMBERS TO VARIOUS CADRES. -

(1) The allocation of cadre officers to the various cadres shall be made by the Central Government in consultation with the State Government concerned."

The applicant has contended that there has been no meaningful consultation with the State Governments in accordance with the above rule.

8. The aforesaid rule provides for consultation and not concurrence. The answering respondents have asserted that

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consultation has been made. The applicant has not been able to show that the State Government concerned has not been consulted. Therefore, we do not find any merit in this contention.

9. The applicant has contended that the allotment of 'outsiders' and 'insiders' in the ratio of 2:1 respectively is done following the sequence of insider-outsider-outsider-insider and that for the 1985-87 course and 1986-88 course, the sequence followed was outsider-outsider-insider-outsider-outsider. According to the applicant, this year, the allocation should start from insider and follow the sequence of insider-outsider-outsider-insider, which would mean that two out of four vacancies would go to 'insiders' and he can be allocated to the Punjab cadre even though he is lower in the rank of merit than respondent No.3. The answering respondents have asserted that the roster system for reserved vacancies and for unreserved vacancies is implemented separately and that the three-point roster for division of vacancies between insiders and outsiders operates as outsider-insider-outsider. Since there were only three unreserved vacancies in the Punjab cadre for that year, only one insider could have been allocated. Based on this, the contention of the applicant in this regard is devoid of merit.

10. The applicant has alleged that Mrs. Shruti Sharma (1988-89) and Shri Sunil Datt Sharma had declared Delhi as their home-State and had also indicated their willingness for allocation to their home-State; but Mrs. Shruti Sharma had been allowed to change her option from 'yes' to 'no' and had been allotted Rajasthan, and Shri Sunil Datt Sharma had been allotted the Himachal Pradesh cadre as 'insider' because at his request his home-State had been changed to Himachal Pradesh. Similarly Shri Sanjay Beniwal (1987-88 course) had declared Delhi as home-State and had not opted for allotment to his home-State, but he was allowed to change his option from 'no' to 'yes' sometime in November, 1988.

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Accordingly he has alleged arbitrariness and consequential violation of Articles 14 and 16 of the Constitution of India on the part of the answering respondents. The answering respondents have refuted these allegations and we have nothing before us on record which can substantiate the allegations of the applicant.

11. It is true that in the Principles of Allocation of Cadres (Annexure A-5 to the application), no guidelines have been indicated as to how the home-State of a probationer will be decided and how a probationer will be treated as an insider. The learned counsel for the answering respondents also confirmed at the bar that no such parameters or guidelines have been laid down. Had there been any such guidelines, it would have been easier to adjudicate on the claims of the applicant as well as respondent No.3. The counter-affidavit of respondents No.1 and 2, however, spells out the parameters which have been taken into account and these have been referred by us in the preceding paras. Admittedly, respondent No.3 ranked higher in merit than the applicant in the Examination. On scrutiny of his case, the answering respondents found that his father's State was Punjab and he was also born in Punjab, but his domicile was Delhi. On the other hand, the applicant's father's State was found to be Punjab, but his place of birth and domicile were U.P. Between these two, treatment of respondent No.3 as belonging to Punjab is definitely much stronger than the claim of the applicant. As there is only one vacancy for allotment to 'insider', the applicant does not have a better claim vis-a-vis respondent No.3, even though he was treated as belonging to Punjab. The applicant could claim to be allotted to Punjab cadre only if respondent No.3 had not been treated as 'insider'. Respondent No.3 has not filed any application before us for any relief, but he has supported the claim of the applicant in this application. We, therefore, cannot give any relief to respondent No.3 in this application. He has already made
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a representation to respondent No.1 (Annexure A-6 to the application).

12. It has been contended before us by the applicant as well as respondent No.3 that in case the home-State of a probaticner was found to be different than the one declared by him in his Application Form or in other documents obtained from him, his option in regard to his willingness to go to the home-State has to be treated for the home-State as given in these documents and that it could not be taken to be his option for the home-State as determined on scrutiny by the answering respondents, and, as such, a fresh option should have been obtained. The answering respondents have stated that allowing a fresh option to the candidates was neither feasible nor administratively expedient. We do not propose to adjudicate on this contention in this application, as it does not directly affect the case of the applicant inasmuch as even on scrutiny his home-State has been found to be Punjab but he could not be allocated to the Punjab cadre as an 'insider' since there was only one vacancy for 'insider' and he ranked lower than another candidate whose home-State, on scrutiny, was found to be Punjab and he ranked higher in merit than the applicant.

13. In view of the above discussion, we find no merit in the application, which is accordingly rejected at the admission stage itself. In the circumstances of the case, there shall be no order as to costs.

(Signature)
(P.C. JAIN) 4/8/89
MEMBER(A)

(Signature)
(P.K. KARTHA) 4/8/89
VICE CHAIRMAN.