

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

(10)
O.A. No. 466 of 1988
T.A. No.

DATE OF DECISION 25.5.1989

Shri Lalit Kumar Gupta

Petitioner

Shri N.B. Shetye, Sr. Counsel with
 Shri Atul Chitale,

Advocate for the Petitioner(s)

Versus

Union of India & Another

Respondent

Shri P.H. Ramchandani, Senior

Advocate for the Respondent(s) No.1

Shri S.C. Gupta, Sr. Advocate, with Dr. B.S. Chauhan, counsel
 for Respondent No.2

CORAM

The Hon'ble Mr. Justice Amitav Banerji, Chairman.

The Hon'ble Mr. B.C. Mathur, Vice-Chairman.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

MGIPRRND-J2 CAT/86-3-12-86-15,000

De mathur
 (B.C. Mathur)

Vice-Chairman

Ab
 (Amitav Banerji)

Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, DELHI.

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Regn. No. OA 466 of 1988

Date of decision: 25.5.89

Shri Lalit Kumar Gupta

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Applicant

Vs.

Union of India

Respondent No1.

Through Secretary, Deptt. of Personnel & Training,

North Block, New Delhi.

Miss Neel Kamal, IAS Probationer.

Respondent No.2

PRESENT

Shri N.B. Shetye, Senior Counsel with
Shri Atul Chitale, counsel for the applicant.

Shri P.H. Ramchandani, Sr. Counsel for Respondent
No.1.

Shri S.C. Gupta, Senior Advocate, with Dr. B.S.
Chauhan, advocate, for Respondent No.2

CORAM

Hon'ble Shri Justice Amitav Banerji, Chairman.

Hon'ble Shri B.C. Mathur, Vice-Chairman.

(Judgment per Hon'ble Shri B.C. Mathur, Vice-Chairman)

This is an application filed under Section 19 of the Administrative Tribunals Act, 1985, by Shri Lalit Kumar Gupta, an I.A.S. probationer, against the impugned order dated 21st December, 1987 rejecting the claim of the applicant to be allotted to the Rajasthan Cadre of the I.A.S.

2. Brief facts of the case are that the applicant competed in the Combined Civil Services Examination, 1986 and secured 55th position in the order of merit. The applicant is domiciled in the State of Rajasthan. There were three vacancies in the Rajasthan Cadre of the I.A.S. for which placements had to be done on the basis of the Civil Services Examination, 1986. One of the candidates, namely, Ms. Neel Kamal has been allotted to Rajasthan as an "insider" as she has claimed to belong to Rajasthan and has secured the 48th position in the same Examination. According to the applicant, Respondent No.2, Ms. Neel Kamal, is a domicile of U.P. and for purposes of higher education joined Banasthali Vidyapeeth in Rajasthan from 1978 to 1982. Banasthali Vidyapeeth is an institute of repute for women candidates where students from all over India

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study. After completing her study at the Banasthali Vidyapeeth, for M.Phil. she joined the Allahabad University. Her place of birth is Padraura, U.P. and her father, Dr. Ambika Prasad Sinha, also retired from U.P. Government and is now practising as a private practitioner in U.P. in the district of Hardoi. The address of Respondent No. 2 is also the same as of her father's address. According to the applicant, Ms. Neel Kamal has stated in some forms that she is a domicile of U.P. and has lived for more than 3 years at Meerut, Hardoi, and Allahabad, all in U.P. The applicant filed a petition to the Ministry of Personnel claiming allotment to Rajasthan cadre in preference to Ms. Neel Kamal but the same has been turned down. The claim of the applicant is that he should be allotted to Rajasthan Cadre in preference to Respondent No.2 who is not a resident of Rajasthan, but of U.P.

2. The Respondents (No.1) in their reply have stated that both the applicant as well as Ms. Neel Kamal have shown their domicile as Rajasthan. There were three vacancies in Rajasthan out of which one vacancy is to be filled by a person whose home State is Rajasthan. According to the application and attestation forms, Ms. Neel Kamal had claimed Rajasthan as her home State. Copies of her application and attestation forms are at Annexures R-1 and R-II. It has been pointed out that columns 15, 16, 18 and 20 of these forms indicate that the father of Respondent No.2, Dr. Ambika Prasad Sinha, originally belonged to District Kotah in Rajasthan. She got her college education (B.A. & M.A.) in Rajasthan and this claim of Respondent No.2 has been accepted by the Government on the basis of which she has been allotted to Rajasthan as her position was higher than that of the applicant. It has been stated the so called "Rules for Allocation of Cadres" are not statutory rules but are mere principles of allocation adopted by the Government as guidelines and these guidelines do not confer any legal right on any individual candidate to enforce it in a court of law. The claim of Ms. Neel Kamal that Rajasthan is her home State and her allocation to that State are purely administrative

decisions and there is no arbitrariness in this.

4. In her reply, Respondent No. 2 has stated that while filling the application and attestation forms for I.A.S. tests etc. she made it clear that her State of domicile is Rajasthan. Since earliest generation known, her family has come from Rajasthan. Her great-grand father was working as a Treasurer in the erstwhile State of Kotah, which is a part of Rajasthan. As early as in 1947, the District Magistrate of Kotah had issued a certificate certifying that her father was a bonafide resident of Kotah State. A photostat copy of the certificate has been annexed with her reply. Further, the grand father of Respondent No.2 had large number of immovable properties in Rajasthan. As there was some dispute regarding the immovable properties among the family members, her father, Dr. Ambika Prashad Sinha, had given a public notice in Newspaper "Janvani" alongwith his brother, Dr. R.P. Dokalia, and his mother to indicate the location of the property. The father of Respondent No.2 also executed several rent deeds in favour of various persons of which she has attached photostat copies which indicate that her father has immovable property in Rajasthan. While filling up the forms at the LBS National Academy of Administration, she did fill up two columns mentioning Rajasthan as the home State and U.P. as the State of domicile. She was also a teacher at Banasthali Vidyapeeth for two years. Before joining the Banasthali Vidyapeeth, she filled up a form on 23.8.81 indicating Rajasthan as her home State. At that time, there was no question of her appearing at the IAS etc. examination and no dispute was ever raised about her home State. She has also stated that while filling up the application and attestation forms for the I.A.S. tests etc., the applicant has himself stated that his father originally belongs to Bulandshahr District in U.P. and this being the state of affairs, the applicant has no locus standi to raise the issue whether she is an "outsider" or an "insider".

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for the purpose of allocation of cadre. She concedes that as an unmarried girl she has availed of L.T.C. to visit her father, but that does not mean that her home State is not Rajasthan. She, therefore, claims that by no stretch of imagination she can be termed as an "outsider" as far as the allocation of cadre in Rajasthan is concerned.

5. The learned counsel for the applicant said that although Respondent No.2 had declared Rajasthan as her home State, she could not do so in view of what she has stated in columns 15, 16, 18 and 20 of the application and attestation forms for the I.A.S. examination. She was born in U.P. and spent most of her time in that State. Her father had actually migrated before she was born to U.P. and all the properties which the family had in Rajasthan have already been disposed of and once the question of her home State is disputed, it has to be seen whether she could be considered as belonging to the Rajasthan State when she and her father had shifted to U.P.

6. We have carefully considered the pleadings in this case and heard the arguments by the learned counsel for the applicant and the respondents. We feel that the applicant has no locus standi to raise the issue whether Ms. Neel Kamal's home State is Rajasthan or not, he having himself stated that his father originally belongs to U.P. On the other hand, Ms. Neel Kamal appears to have deep roots in Rajasthan. Even if her father has spent a long time in U.P. serving there in the Medical Service and now practising in U.P., it cannot be said that he has severed his connection with Rajasthan. In any case, Ms. Neel Kamal has claimed Rajasthan as her home State not only while filling the application form for joining the Banasthali Vidyapeeth in 1981, she has given the same statement while filling up the application forms for the competitive examination for IAS and other allied Services in 1986. At that time it was open to her to choose her State and in spite of the fact that

she has lived with her father and studied in U.P. for a long time, she chose Rajasthan as her home State. Any person whose ancestors have lived in Rajasthan for at least four generations cannot be termed as an "outsider" if he or she chooses to claim Rajasthan as the home State. The statement made by her while filling up the forms for appearing at the examination should be taken as final and should not be challenged after the results of the examination have been declared. We feel that Respondents No.1 have correctly accepted the statement given in the application and attestation forms filled by Ms. Neel Kamal for taking the competitive examination and rejected the case of the applicant. In fact, the respondents could not have done anything else. It just happens that Ms. Neel Kamal has secured a higher rank than the applicant in the competitive examination resulting in her allocation to the Rajasthan cadre of the I.A.S. This could not have been foreseen in 1986 when she filled up the forms. We see no merit in the application which is rejected. There will be no orders as to cost.

(Amitav Banerji)
Chairman

(Amitav Banerji)

B.C. Mathur
(B.C. Mathur)
Vice-Chairman

B.C. Mathur
25.8.88