CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

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Regn. No. OA 1069/90 Date of decision: 5.10.1990

S.K. Agarwala .... Applicant

Vs.

Union of India & Others Respondents

PRESENT

Shri Madhav Panikar, counsel for the applicant.

Shri P.H. Ramchandani, Sr. Counsel for the respondents.

CORAM

Hon'ble Shri Justice Amitav Banerji, Chairman.

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

The applicant was selected to the Indian Defence Accounts Service Group 'A' post on the basis of the Civil Services Examination conducted in 1987. The applicant appeared again at the C.S.E. 1988, but was not successful. He now seeks to appear at the Civil Services (Main) Examination 1990 having cleared the Preliminary Examination conducted by the UPSC as permitted by the Tribunal.

2. The arguments raised in this O.A. are the same as in the case of O.A. No. 1853/90 Shri Jayanta Kumar Basu and Ors Vs. Union of India & Ors. We have already indicated our views on the points raised in the above case.

3. For the reasons indicated therein, this O.A. is rejected ~~at the admission stage~~.

(B.C. Mathur)
Vice-Chairman
5.10.90

(Amitav Banerji)
Chairman
5.10.90

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

DATE OF DECISION: 4.10.1990.

OA No. 1853/90.

Shri Jayanta Kumar Basu & Ors. Vs. U.O.I. & Ors.

Applicant through counsel Shri A.K. Behera.

MP No. 2196/90.

This M.P. under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 is allowed.

OA No. 1853/90.

This O.A. is filed by the 8 applicants. They have prayed that the second proviso to Rule 4 of the C.S.E. Rules is not applicable to the applicants No.4 to 8 and also to declare the said proviso as unconstitutional and void and direct the respondents to grant all consequential benefits to the applicants.

In this O.A. the first three applicants were allocated to Indian Ordinance Factory Service (IOFS) on the basis of the results of the C.S.E. 1987 and applicants No.4 to 8 were allocated to the same service on the basis of the results of the C.S.E. 1988. They were all appointed as Asstt. Works Manager (Non-Technical). They were asked to join the Foundational Course of IOFS in August, 1989 and at present were undergoing training at Ordnance Factories Staff College, Nagpur. They intended to appear in the C.S.E. 1990. They had appeared in the preliminary examination and had succeeded and they wanted to appear in the Civil Services (Main) Examination, 1990. They approached the U.P.S.C. for getting the forms but were told that they would not be issued any Form in view of the 2nd proviso to Rule 4 of the C.S.E. Rules unless they resign from the Indian Ordnance Factory Service to which they have been allocated. The case of the applicants

is that in view of the fact that in 1990 the age limit was raised and they were entitled to at least one more opportunity to better their prospects. They were entitled to sit in the forthcoming examination. They have also challenged the validity of the 2nd proviso to Rule 4 of the C.S.E.Rules.

3. We have heard learned counsel for the applicant/(s) and considered the arguments raised by him. We are not impressed that this is a fit case for admission. Three of the applicants were taken in the IOFS on the basis of 1987 C.S.E. They did not sit in the next examination which was held in the year 1988. The 2nd proviso to Rule 4 speaks of next examination and not one extra chance apart from the Rules. All those who were eligible to appear could have one more chance but if they were not eligible under the Rules, they would not be entitled to sit in the examination. Applicants 4 to 8 succeeded in the 1988 C.S.E. and were selected to the IOFS but they did not sit in the 1989 C.S.E. which was the next examination. They are, therefore, not entitled to sit in the subsequent examination of 1990 unless they first resign from the service. We hold accordingly.

Consequently, this O.A. merits to be dismissed at the admission stage. We order accordingly.

(B.C.MATHUR)
VICE-CHAIRMAN (A)
4.10.1990.

(AMITAV BANERJI)
CHAIRMAN
4.10.1990.

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Section Officer
Central Administrative Tribunal
Principal Bench, New Delhi

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

DATE OF DECISION: 4.10.1990.

REGN. NO:MP 2384/90 in
OA 2008/90

Dr. Harmeet Singh & Ors Vs. Union of India & Ors.

Applicant through counsel Shri A.K. Behera.

MP No. 2384/90.

This M.P. under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 is allowed.

OA No. 2008/90.

In the present O.A., the applicants are aggrieved that they have not been allowed to appear in the Civil Services(Main) Examination, 1990, without resigning from the Indian Revenue Service to which they were appointed on the basis of the C.S.E. 1988.

Shri A.K. Behera, learned counsel for the applicants, raised a contention that similar candidates who had succeeded in the C.S.E. 1986 or earlier years were, however, being granted leave upto December, 1990 to appear in the Civil Services(Main) Examination, 1990 without being asked to resign from the respective services whereas the applicants, who had succeeded in the 1988 C.S.E. are not being treated alike. This amounts to discrimination. Learned counsel contended that a different or separate class cannot be created between two sets of candidates appearing in the C.S.E. on the basis of the year in which they appeared in the C.S.E.

We find no merits in the contention raised by the learned counsel for the applicant/(s). The amendments in Rule 4 of the C.S.E. Rules were introduced in December, 1986 which had application to candidate appearing in 1987 C.S.E.

It was not retrospective in operation and consequently, it had no effect for those candidates who had sat in the 1984, 1985 or 1986 C.S.Es. The provisions of Rule 4 of the C.S.E. Rules, 1986 had full application to candidates appearing in Civil Services (Main) Examination, 1987, 1988 and 1989. The Division Bench decision in the case of SHRI ALOK KUMAR (Supra) and batch of cases decided on 20.8.1990 has held the second proviso to Rule 4 and Rule 17 of the C.S.E. Rules to be valid. Consequently, the position of all candidates who appeared in the C.S.Es 1987, 1988 and 1989 is on a different plane altogether than those who appeared in C.S.Es 1984, 1985 and 1986. The Division Bench has taken the view that the candidates who have succeeded in the C.S.E. 1987 and allocated to a service would be eligible to one more opportunity subject to the provisions of the C.S.E. Rules, 1987 which allows them to appear in the 'next examination'. The said Rule had no application to those candidates who had appeared in C.S.Es 1984, 1985 and 1986 and were allocated to a service. The candidates who have been allocated a service as a result of 1987 or 1988 or 1989 C.S.E would not be eligible for the 1990 C.S.E. unless they came within the purview of the second proviso to Rule 4 of the C.S.E. Rules, 1986.

We, therefore, find no merits in the above contention. The applicants in the present O.A. are not entitled to any relief. No other point was urged. Consequently, the O.A. is dismissed at the admission stage.

(B.C. MATHUR)
VICE CHAIRMAN (A)
4.10.1990.

(AMITAV BANERJI)
CHAIRMAN
4.10.1990.

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Section Officer
Central Administrative Tribunal
New Delhi