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

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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.

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 ICFS 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 ICFS 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.