

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
N E W D E L H I

O.A. No. 2352/90
T.A. No.

199

DATE OF DECISION 23.11.1990

<u>Shri Vikas Kumar</u>	Petitioner
<u>Shri G.D. Bhandari</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India & Others</u>	Respondent
<u>Shri P.H. Ramchandani</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice Amitav Banerji, Chairman

The Hon'ble Mr. I.K. Rasgotra, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? ✓ Yes
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 ?

(AMITAV BANERJI)
CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA No. 2352/90

Date of decision: 23.11.90

Shri Vikas Kumar

...Applicant

Versus

Union of India & Others

...Respondents

Coram:

The Hon'ble Mr. Justice Amitav Banerji, Chairman

The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the applicant

Shri G.D. Bhandari,
Counsel

For the respondents

Shri P.H. Ramchandani,
Counsel

(Judgement of the Bench delivered by Hon'ble Mr.
I.K. Rasgotra, Member(A))

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant is seeking relief against the order of Ministry of Public Grievances & Pensions, Department of Personnel & Training letter dated 1.8.1990, refusing him to join probationary training along with other selected candidates on the basis of Civil Services Examination, 1989. He also challenged the letter dated 19th September, 1990 issued by the Department of Personnel & Training, permitting him to abstain from probationary training in terms of the Rule-4 of the Civil Services Examination Rules, with the condition that he will be sent for training along with the candidates who qualify on the basis of Civil Services Examination 1990.

2. The applicant appeared in the Civil Services Examination, 1989 conducted by the Union Public Service Commission and was declared successful. Based on his ranking in the said examination he has been sent an offer to the effect that "he is being tentatively considered for appointment to the Indian Railway Traffic Service (IRTS) on the basis of C.S.E. 1989" and that if he is willing to be considered for appointment to the said service he may report to the Director Lal Bahadur Shastray National Academy of Administration, Mussoorie on August 19, 1990. His attention has been further drawn in the Department of Personnel letter of August 1, 1990 to Rule 4 of Civil Services Examination 1990 Rules. The relevant provisions of the said letter is extracted below:-

"In view of the provisions contained in this rule, you will not be allowed to join probationary training, which includes Foundational Course also, along with the candidates of the Civil Services Examination, 1989 if you intend to appear in the Civil Services (Main) Examination, 1990. In that event you will be allowed to join probationary training along with the candidates who qualify the Civil Services Examination, 1990. Accordingly, if you have qualified in the Civil Services (Preliminary) Examination, 1990 held on 10th June, 1990 and intend to appear in the main examination to be held later this year and you accept the proposed allocation of the service, you should not proceed

to join the Foundational Course but intimate this fact by telegram immediately as in the enclosed form 'B' to this Department and also to the Director of Academy concerned. On receipt of the information in this regard, you will be given permission to abstain from probationary training. You are also not required to join the Foundational Course if you have already done it on your appointment to a service on the basis of an earlier examination. You will be governed in the matter of service conditions including seniority, by the rules and regulations applicable to the services to which you are finally allotted."

Aggrieved by the above abridgement of his Right to improve his career prospects the applicant in this application has sought the following reliefs:-

- i) Set aside and quash para 3 of Department of Personnel & Training Letter dated 1.8.1990 (A-1) whereby the Respondents have disallowed the applicant to join the probationary training along with other selected persons of the Civil Services Examination, 1989 on the grounds that he is appearing in Civil Services Examination, 1990 and

ii) order/command/direct the Respondents to permit the applicant to join the Probationary Training commencing from first week of December, 1990."

3. Shri G.D. Bhandari, the learned counsel for the applicant submitted that the facts of his case are slightly different from the case of Alok Kumar (OA-206/89) and 61 other OAs decided by the Tribunal vide judgement dated 20.8.1990. He drew our attention that the applicant has not been offered an appointment in the Indian Railway Traffic Service (IRTS). All that he has been said in the communication dated August 1, 1990 (Annexure A-1) is that he is tentatively being considered for appointment to IRTS. He has further been requested to advise if he is willing to be considered for appointment. Since no definite offer of appointment has been made to him, denying him the right to join training on the basis of C.S.E., 1989 and placing other restrictions in terms of Rule-4 of Civil Services Examination, 1990 Rules is tantamount to abridgement of his Fundamental Rights.

4. The issues of law and fact raised in this OA are the same as have been dealt with and disposed of in OA-206/89 and 61 other OAs in a common judgement delivered by this Tribunal on 20th August, 1990. The only difference is year of Civil Services Examination (C.S.E.). Rule 4 of C.S.E. 1989 is the same as in C.S.E. 1988. The change in the year of examination does not in any way alter or compromise the grievance agitated in the present O.A.

The vires of 2nd proviso to Rule-4 of Civil Services Examination Rules and the restrictions the said rule places on the candidates, who are seeking to improve their prospects by taking additional chance has been extensively discussed in the case of Alok Kumar Vs. Union of India & Ors. (OA-206/89). It is the second proviso to Rule-4 which empowers the respondents to issue the impugned order placing restrictions vide paragraph-3 of Annexure-A-1 on the applicants (extracted paragraph 2 above). The Tribunal after detailed deliberation of the matter held the second proviso to Rule-4 of Civil Services Examination Rules as valid. The provisions of Rule 17 of the above Rules are also held valid. The Tribunal had further concluded that the above provisions are not hit by the provisions of Article 14 & 16 of the Constitution of India and that the restrictions imposed by the second proviso to the Rule-4 of Civil Services Examination Rules are not bad in law.

Having regard to the above, We direct that the reliefs claimed by the applicant in this OA shall be regulated in accordance with the decision of this Tribunal in the case of Alok Kumar (OA-206/89).

The OA is disposed of at this stage with no orders as to costs.

Abhay K.
(I.K. RASGOTRA)
MEMBER(A) 23/11/1992

AB
(AMITAV BANERJI)
CHAIRMAN

'SKK'