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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA 2736/1991

Date of decision: 08.05.1992

Ms. Arti K. Chhabra & Others

...Applicants

Vs.

U.O.I. through the Secretary, Ministry of
Personnel & Public Grievances and Pension & Others

...Respondents

For the Applicants

...Shri A.K. Behra, Counsel

For the Respondents

...Shri P.H. Ramchandani, Sr. Counsel

CORAM:

The Hon'ble Mr.P.K. Kartha, Vice-Chairman(J)

The Hon'ble Mr.I.K. Rasgotra, Administrative Member

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

JUDGMENT

(of the Bench delivered by Hon'ble Shri P.K. Kartha,
Vice-Chairman(J))

The question whether a candidate who had been allocated to Central Civil Services Group 'A' on the basis of the results of the previous Civil Services Examination after due consideration of the preferences expressed by him, ~~has~~ *is* is entitled to be considered for appointment to a Central Services Group 'A' on the basis of the result of a subsequent Civil Services Examination in which he has come out successful, arises for consideration in this application filed under Section 19 of the Administrative Tribunals Act, 1985.

2. We have gone through the records of the case carefully and have heard the learned counsel of both parties at length. The facts of the case in brief are the following. The three

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applicants before us had appeared in the Civil Services Examination held in 1989 and they were appointed to Group 'A' Service on the basis of the said examination and after due consideration to the preferences expressed by them. Applicant No.1 was allocated to Indian Ordnance Factory Service. Applicant No.2 was allocated to Indian Defence Accounts Service. Applicant No.3 was allocated to Indian Postal Service. At the time of the filing of the application, they were undergoing Foundational Course for the above mentioned Services. When they received offers of appointment, they informed the Department of Personnel & Training that they intend to take the Civil Services Examination 1990. In view of this, they were permitted to abstain from training in terms of Rule 4 of the Civil Services Examination Rules.

3. The applicants appeared in Civil Services Examination 1990 and secured 235th, 239th and 247th ranks. They did not qualify for the IAS, IFS or IPS. They had, however, given preferences for Indian Customs and Central Excise Service Group 'A' (ICCES). They have contended that according to their merit position, they should have been allocated to ICCES but this was not done. Persons who had secured lower ranks than them in the 1990 Examination had been allocated to ICCES and deputed for Foundational Course and professional training of ICCES Group 'A'.

4. The applicants have contended that they have not been appointed to ICCES because of the wrong application of Rule 17 of the Civil Services Examination Rules which are not statutory in nature. They have relied upon the provisions of the Indian Customs and Central Excise Service Group 'A' Rules 1987 which are statutory in nature. They have quoted an example of Shri C.L. Ambesh and of Shri Panigrahi, who were allocated to a Service in Group 'A' on the basis of the preferences expressed by them and on the result of the subsequent examination.

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5. Accordingly, the applicants have prayed for the following reliefs:-

(i) To direct the respondents to allocate and appoint them in the Indian Customs and Central Excise Service Group 'A' on the basis of the ranks and preferences and on the basis of the results of the Civil Services Examination 1990.

(ii) To direct the respondents to give all consequential benefits to them.

(iii) Alternatively, declare Rule 17 of the Civil Services Examination arbitrary and strike down the same.

6. The respondents have contended in their counter-affidavit that the applicants are not eligible for allocation to Group 'A' Services including ICCES on the basis of the examination held in 1990 and the question of allocation of candidates lower in rank would not, therefore, arise. The applicants could have competed only for IAS, IFS and IPS. With regard to the precedents quoted by the applicants, they have explained that the case of Shri Ambesh was a solitary one and was based on a mistake. As regards Shri Panigrahi, the letter issued to him was cancelled soon thereafter. According to them, all the notified vacancies in the Indian Customs and Central Excise Service have been filled. If the prayer of the applicants were to be allowed, it has been contended that it will have unsettling effects of far-reaching nature.

7. The respondents have also relied upon the judgment of this Tribunal dated 20.08.90 in Alok Kumar Vs. Union of India and Others and of the Supreme Court in Mohan Kumar Singhania Vs. Union of India and Others, 1991(2) SCALE 565, wherein the Tribunal as well as the Supreme Court have upheld the validity of Rules 4 and 17 of the Civil Services Examination Rules and have repelled similar contentions as that of the applicants before us.

8. The Indian Customs and Central Excise Service Group 'A' Rules, 1987, relied upon by the applicants, are not relevant in the present context. The said Rules refer to the holding of

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competitive examination for direct recruitment to the Junior Time Scale of the ICCES Group 'A' at such time and place and in such manner as may be specified in a notice issued by the UPSC for this purpose. The said Rules do not confer a right on a candidate who had appeared in the Civil Services Examination in one year and who has been allocated to a particular Group 'A' Service to appointment in ICCES in case he qualifies in a subsequent examination conducted by the UPSC.

9. We are also not impressed by the alternative ground raised by the applicants as to the validity of Rule 17 of the Civil Services Examination Rules. The issue relating to the legal and ~~legal and~~ constitutional validity of Rules 4 and 17 of the Civil Services Examination Rules is settled by the judgment of this Tribunal in Alok Kumar's case and of the Supreme Court in Mohan Kumar Singhania's case, mentioned above. The applicants have been allocated to three Group 'A' services on the basis of their ranking and preference in the 1989 examination in which they had qualified. The respondents have drawn our attention to the notification dated 30.06.1987 issued under Rule 6 of the Central Civil Services (Classification Control and Appeal) Rules, 1965, according to which, a Central Civil Post carrying a pay or a scale of pay with a maximum of not less than 4,000/- is classified as a Group 'A' post. Referring to the proviso under Rule 17 of the Civil Services Examination Rules, the Supreme Court has observed in Mohan Kumar Singhania's case that " the intent of the above proviso proceeds on the footing that all Central Services of Group 'A' stand on equal footing and likewise all Group 'B' Services also stand on equal footing within their respective group of Services/Posts and that there is no point in competing for any one of the Services by a candidate within the same Group 'A' or Group 'B' Services, as the case may be, when he has already been allocated and appointed to one of those Services in either of the Groups to which he has been selected on his merit (Vide page 109 of the judgment).

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10. In the instant case, the respondents have stated in their counter-affidavit that the applicants are undergoing Foundational Course on the basis of their allocation to Group 'A' Service. In our opinion, they cannot compete for any Group 'A' Service on the basis of the results of the 1990 examination in view of the proviso to Rule 17, mentioned above.

11. The contention of the learned counsel for the applicant that the case of the applicants falls outside the provision of Rule 17 of the Civil Services Examination Rules is ingenious but devoid of any merit. Rules 4 and 17 of the Civil Services Examination Rules which are relevant in the context of this application read as under:-

"4. Every candidate appearing at the examination, who is otherwise eligible, shall be permitted three attempts at the examination, irrespective of the number of attempts he has already availed of at the IAS etc. Examination held in previous years. The restriction shall be effective from the Civil Services Examination held in 1979. Any attempts made at the Civil Services (Preliminary) Examination held in 1979 and onwards will count as attempts for this purpose;

Provided that this restriction on the number of attempts will not apply in the case of Scheduled Castes and Scheduled Tribes candidates who are otherwise eligible:

Provided further that a candidate, who on the basis of the results of the previous Civil Services Examination, had been allocated to the I.P.S. or Central Services, Group 'A' but who expressed his intention to appear in the next Civil Services Main Examination for competing for IAS, IFS, IPS or Central Services, Group 'A' and who was permitted to abstain from the probationary training in order to so appear, shall be eligible to do so, subject to the provisions of Rule 17. If the candidate is allocated to a service on the basis of the next Civil Services Main Examination he shall join either that Service or the Service to which he was allocated on the basis of the previous Civil Services Examination failing which his allocation to the service based on one or both examination, as the case may be, shall stand cancelled and notwithstanding anything contained in Rule 8, a candidate who accepts allocation to a Service and is appointed to a service shall not be eligible to appear again in the Civil Services Examination unless he has first resigned from the Service".

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"17. Due consideration will be given at the time of making appointments on the results of the examination to the preferences expressed by a candidate for various services at the time of his application. The appointment at various services will also be governed by the Rules/Regulations in force as applicable to the respective Services at the time of appointment.

Provided that a candidate who has been approved for appointment to Indian Police Service/Central Service, Group 'A' mentioned in Col.2 below on the results of an earlier examination will be considered only for appointment in services mentioned against that service in Col.3 below on the results of this examination.

S.No.	Service to which approved for appointment	Service for which eligible to complete
1.	2	3
1.	Indian Police Service	I.A.S., I.F.S., and Central Services, Group 'A'
2.	Central Services Group 'A'	I.A.S., I.F.S. and I.P.S.

Provided further that a candidate who is appointed to a Central Service, Group 'B' on the results of an earlier examination will be considered only for appointment to I.A.S., I.F.S., I.P.S. and Central Services, Group 'A'.

12. It will be noticed that proviso to Rule 4 refers to ~~the expression~~ the expression "allocated to a Service" while proviso to Rule 17 refers to a candidate who has been "approved for appointment". A candidate who has been allocated to a Central Service Group 'A' but who expresses his intention to appear in the next Civil Services Examination is given permission to abstain from the probationary training along with the same batch. The permission to appear in the subsequent examination is hedged in by the condition that it is "subject to the provisions of Rule 17". Rule 17 would apply to such a candidate who has been given the permission to abstain from probationary training. In case he comes out successful at the subsequent examination and in case he ~~had been~~ ^{had been} allocated to the Central Services Group 'A' on the basis of the result of an earlier examination, he ~~could~~ ^{could} be appointed only to IAS, IFS and IPS and not to any Central Civil Service Group 'A'.

in view of the stipulation contained in the first proviso to Rule 17.

13. The contention of the learned counsel for the applicants is that the Rules are non-statutory in nature is not very relevant. The restriction imposed on a candidate who has been allocated to a Group 'A' Service from competing for another Group 'A' Service on the basis of a subsequent examination is reasonable. The very fact that the respondents had given the applicants permission to abstain from probationary training on the basis of 1989 examination itself indicates that they had been allocated to a Group 'A' Service.

14. In the conspectus of the facts and circumstances of the case, we see no merit in the present application and the same is dismissed.

15. The interim order passed in this case is hereby vacated.

There will be no order as to costs.

I.K. Rasgotra
(I.K. RASGOTRA)
MEMBER(A)
08.05.1992

P.K. Kartha
(P.K. KARTHA)
VICE CHAIRMAN(J)
08.05..1992

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