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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

Regn. No. OA-1272/92

Date of decision: 9.2.1993.

Shri Bharat Bhushan Vyas Applicant

Versus

Union of India and Ors. Respondents

For the Applicant Shri S.C. Gupta, Sr. Advocate
with Shri M.K. Gupta, Advocate

For the Respondents Shri P.H. Ramchandani, Sr. Advocate

CORAM:

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

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. To be referred to the Reporters or not? *No*

JUDGEMENT

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

The applicant, who is presently working as Additional
Chief Executive Officer, Shri Mata Vaishno Devi Shrine Board,
Katra, Jammu and Kashmir, filed this application under Section
19 of the Administrative Tribunals Act, 1985, praying for the
following reliefs:-

- (i) To call from respondent No.1 the records of the
case;
- (ii) to issue a Writ of Mandamus or any other appropriate
Writ, Order or Direction quashing the Notification

No.13013/3/86-AIS(I) dated 19th February, 1987

insofar as the same relates to the applicant's illegal and unconstitutional allocation to the State of Jammu & Kashmir;

(iii) to direct the Government that, on the basis of the rules of allocation, and other statutory rules, the applicant is entitled to be allocated to the State of Rajasthan as an 'insider' candidate with all its consequential benefits;

(iv) to quash the letter/communication No.13017/91-AIS(I) dated 29th July, 1991 issued by the Office of the respondent No.1 and communicated to the applicant by the respondent No.3 vide endorsement dated 30.8.1991; and

(v) to allow costs of the application.

2. We have gone through the records of the case carefully and have heard the learned counsel for both the parties. The applicant belongs to the State of Rajasthan and is a 'General Category' candidate. He appeared in the Civil Services Examination, 1985 and on the basis of the results of the said examination, he was assigned seventh rank in the All India merit list. On that basis, he was allocated to the Indian Administrative Service ('IAS' for short).

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3. The applicant occupied second position amongst the I.A.S. Probationers who had succeeded on the basis of the Civil Services Examination, 1985 and who belonged to the State of Rajasthan. Five seats had to be allocated to Rajasthan from the 1985 batch. Out of these, two were earmarked to be filled by 'insiders'. The applicant had given his choice for his own State, namely, Rajasthan. Among those who opted for Rajasthan as Home State, the applicant had stood second. Instead of allocating him to the second 'insider' vacancy in the State of Rajasthan, one, Shri Siya Ram Meena who belongs to the Scheduled Tribe community and was much below in the merit list, was given the said vacancy and the applicant was allocated the State of Jammu & Kashmir.

4. The applicant has contended that under the principles for cadre allocation, there is no provision for reservation for S.C./S.T. community for the purposes of allocation of 'insider' vacancies of the State Cadre of I.A.S. In the instant case, the second 'insider' vacancy in the I.A.S. Cadre of the State of Rajasthan was allocated to a reserved category person in violation of the policy of allocation, and the Rules and Regulations on the subject.

5. The allocation of State Cadres to the I.A.S. (Probationers) is required to be done in accordance with the policy formulated

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by the Government and brought into force w.e.f. the Civil Services Examination, 1984. According to the applicant, the said policy was placed on the Floor of Parliament in the Annual Report of the Department of Personnel & Training for the year 1986-87. According to the respondents, the policy is contained in the d.o. letter No. 13013/5/84-AIS(I) dated 31.5.1985 from Shri K. Ramanujam, the then Secretary, Department of Personnel & Training, addressed to Shri T.N. Seshan, the then Secretary, Department of Forests and Wild Life.

6. The applicant has contended that he, having occupied the second position among the candidates selected for the I.A.S. on the basis of the results of the 1985 Examination from the State of Rajasthan, ~~he~~ should have been allocated to that State as an 'insider' in accordance with the above policy.

7. The applicant made a representation to the respondents on 7.5.1991 which was rejected by them on 29.7.1991. He has stated that he had been meeting the concerned officials of respondent No.1 (Secretary, Department of Personnel & Training) and on each such meeting, he was assured that the decision in Miss Ravneet Kaur, IAS whose case was then pending before the Chandigarh Bench of the Tribunal, would be made applicable to his case also. The S.L.P. filed against the judgement of

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this Tribunal in Miss Ravneet Kaur's case, was dismissed by the Supreme Court. A Full Bench of this Tribunal in Rajiv Yadav Vs. Union of India, 1992 (19) ATC 455, has affirmed the judgement in Miss Ravneet Kaur's case. The applicant has contended that the respondents should have extended the benefit of the said judgement to him on their own.

8. The respondents have stated in their counter-affidavit that the Union of India have filed SLP (C) No. 6767/92 in the Supreme Court in Rajiv Yadav's case and the Supreme Court has stayed the said judgement by order dated 15.4.1992.

9. During the hearing of the case, the learned counsel for the respondents argued that the application is barred by limitation. He submitted that the case of Ravneet Kaur related to 1987 Examination and that of Rajiv Yadav, related to the 1988 Examination. The applicant was allocated to the I.A.S. Cadre of Jammu & Kashmir in 1987, whereas the application was filed in the Tribunal only on 6.4.1992.

10. As against the above, the learned counsel for the Applicant & ~~Respondents~~ submitted that the representation made by the applicant on 7.6.1991 was entertained by the respondents and rejected on 29.7.1991. According to him, the limitation would begin only from 29.7.1991, i.e., the date of rejection of the representation. Q

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11. We are inclined to agree with the aforesaid submission made by the learned counsel for the applicant.

12. The Supreme Court has stayed a judgement of the Full Bench of this Tribunal by order dated 15.4.1992 which is an interlocutory order. We are still bound by the Full Bench judgement of this Tribunal in Rajiv Yadav Vs. Union of India, 1992 (12) A.T.C. 455.

13. A Division Bench of this Tribunal, in its referral judgement dated 9.6.1991 in OA-2557/90 (Rajiv Yadav Vs. Union of India & Others) had requested the Hon'ble Chairman to refer the following questions relating to the allocation of Cadres, to a Larger Bench for decision:-

(i) whether the principles set out in the letter of Shri Ramanujam, the then Secretary (Personnel) addressed to Shri T.N. Seshan, the then Secy. (Environment and Forests) dated 31st May, 1985 or those set out in the Annual Report of the Department of Personnel for the year 1986-87 and similar Annual Reports of the previous and subsequent years can be said to represent the established policy guidelines for the purpose of allocation of I.A.S. Probationers?;

(ii) whether the system of allocation adopted by the Government since 1985 confers a double benefit

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on the I.A.S. Probationers belonging to the Scheduled Castes and Schedules Tribes category over and above the benefits to which they are entitled under the provisions of Article 16 of the Constitution?;

(iii) whether the policy guidelines on cadre allocation adopted by the Government in the light of experience gained over the years, are liable to be struck down on the ground that it does not ensure allotment to each State/Union Territory of at least one direct recruit I.A.S. Probationer who is a topper in the Examination and who had opted for that State/Union Territory?; and

(iv) whether the decisions of the Guwahati Bench in Shri Narendra Kumar's case and of the Chandigarh Bench in Miss Ravneet Kaur's case, have laid down the correct law on the subject of cadre allocation of I.A.S. Probationers?

14. The Full Bench, by its judgement dated 1.10.1991, held that the principles of allocation set out in the Report represent the established policy guidelines governing the allocation of I.A.S. Probationers, and that the principles set out in the d.o. letter to the extent not covered by the former, cannot have legal sanction as established policy guidelines in the matter. It was further held that the provision relating to the

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reservation for Scheduled Castes and Scheduled Tribes in respect of the cadre allocation contained in clause (2) of the d.o. letter confers an added benefit on the I.A.S. Probationers belonging to the Scheduled Castes and Scheduled Tribes, and that this additional benefit does not have the sanction of law under Article 16(4) of the Constitution. The Full Bench also came to the conclusion that the Chandigarh Bench has laid down the law correctly.

15. Following the decision of the Full Bench, we allow the present application and dispose it of with the following orders and directions:-

- (i) The impugned cadre allocation at Annexure A-1 to the application to the extent that the same allocates the applicant to the I.A.S. Cadre of Jammu & Kashmir, is set aside and quashed. The applicant shall be allocated to the I.A.S. Cadre of Rajasthan;
- (ii) the applicant would be entitled to all consequential benefits, including seniority;
- (iii) the respondents shall comply with the aforesaid directions expeditiously and preferably within a period of four months from the date of receipt of this order; and
- (v) there will be no order as to costs.

B. N. Dholiyal
(B.N. Dholiyal) 9/2/93
Administrative Member

order
9/2/93
(P.K. Kartha)
Vice-Chairman (Judl.)