

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.253/92

DATE OF DECISION:3.2.92.

SHRI VILAS RAIBHAN GHODESWAR & OTHERS ....APPLICANTS

VERSUS

UNION OF INDIA & OTHERS

....RESPONDENTS

CORAM:

HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

HON'BLE MR. J.P. SHARMA, MEMBER (J)

FOR THE APPLICANTS MISS SANDHYA GOSWAMI, COUNSEL

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE

MR. I.K. RASGOTRA, MEMBER (A)

Shri Vilas Raibhan Ghodeswar, an officer of Indian Civil Accounts Service (ICAS) Group 'A' appointed on the basis of the results of Civil Services Examination (CSE), 1984 and S/Shri Madan Mohan, Pradeep Berwah, Subodh Kumar Mathur officers of the ICAS Group 'A' appointed on the basis of CSE, 1985, Shri Kaushalendra Kumar Singh, Indian Revenue Service Group 'A' appointed on the basis of results of CSE, 1985 and Shri Dilip Padhy, Indian P&T Accounts and Finance Service Group 'A' appointed on the basis of CSE, 1985 have filed/Original Application jointly, under Section 19 of the Administrative Tribunals Act, 1985 assailing Part (b) of second proviso of Rule 4 (iv) of Notice of Union Public Service Commission (UPSC) published in Employment News dated 28.12.91. Part (b) of the second proviso to rule 4 (iv) (b) stipulates that "a candidate allocated and appointed to the I.P.S. or a Group 'A' Service on the basis of the Civil Services Examination held in 1990 or earlier years shall not be eligible to appear at the examination being held in 1992 unless he has first resigned from the service."

The validity of the second proviso to Rule 4 is challenged mainly on the ground that it places embargo on the candidates seeking to improve their career prospects in the Government Service and in particular on those who have succeeded in a previous examination and have been allocated and appointed to a Group 'A' service. The other aspects of the argument is that there is an infringement of the provisions of the Articles 14 and 16 of the Constitution of India.

By way of relief the applicants pray that the part (b) of the second proviso to Rule 4 (iv) of CSE, 1992 should be amended so as to declare the applicants who were appointed to the Group 'A' services based on the results of the CSE held prior to the CSE, 1990 to which the applicants were eligible but remained unsuccessful in that examination, eligible to take up CSE 1992 without requiring them to first resign from their services. The applicants have also prayed for interim relief to the effect that they be allowed to submit the application form for Civil Services (Prelims.) Examination 1992, for which the last date is 3rd February, 1992, without requiring them to first resign from service and that the respondents be directed to permit them to appear in the said examination.

We have heard the learned counsel for the applicants Miss Sandhya Goswami and considered the matter brought before us on record very carefully. The validity of the second proviso to Rule 4 of CSE Rules was earlier challenged on broadly similar grounds in **OA No.206/89 Shri Alok Kumar v. UOI & Ors. & 61 other O.As** which was examined in great depth and detail **decided on 20.8.1990**. We, therefore, do not consider it necessary to go into the details of the matter. It would suffice to reiterate the conclusion reached by us in **Alok Kumar's (supra) judgement** for the reasons given therein. While dealing with point No.1, relating to the validity of second proviso to Rule 4 and after referring and

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relying on the judgements of the Hon'ble Supreme Court in **M/s. Mackinnon Mackenzie & Co. Ltd. v. Audrey D'Costa & Anr.** AIR 1987 SC 1281, **Satya Narayan Prasad Srivastava v. The State of Bihar & Ors.** 1978 (1) SLR 351, **Dr. Ajay Pradhan v. State of Madhya Pradesh & Ors.** AIR 1988 SC 1875, **King Emperor v. Benori Lal Sarma** AIR 1945 PC 48 and **Maxwell Interpretation of Statutes etc.** the Tribunal came to the conclusion that:-

"We are, therefore, satisfied that the intention of the proviso was to place certain restrictions on the number of attempts that a candidate who has come in the I.P.S. or in a Central Service, Group 'A'."

These restrictions were held to be valid and in public interest as it is obviously not the intent to keep the Central Civil Services in a state of flux for an unreasonable period of time. The modification in the Rule was made on the basis of Kothari Committee's report keeping in view the exigencies and circumstances of the situations in public interest. Further the applicants herein have already put in 5/6 years of service, as they joined on the basis of 1984/1985 C.S.E. They constitute a class by themselves. In **G. Elanchezhiyan & Ors. v. UOI & Ors.** 1990 (2) CAT AISLJ 236 it has been held:-

"....In applying the wide language of Arts. 14 and 16 to concrete cases doctrinaire approach should be avoided and the matter considered in a practical way, of course, without whittling down the equality clauses. The classification in order to be outside the vice of inequality must, however, be founded on intelligible differentia which on rational grounds distinguishes persons grouped together from those left out. The differences which warrant a classification must be real and substantial and must bear a just and reasonable relation to the object sought to be achieved. If this test is satisfied, then the

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classification cannot be hit by the vice of inequality. Reference is invited in this connection to GANGA RAM & ORS. Vs. U.O.I & ORS. (1970(1)SCC 377)."

The differences between the applicants in this application and those who would ordinarily be allowed to appear in the CSE, 1992 are substantial and real. The sole objective of the applicants herein is to avail yet another chances to improve their prospects oblivious of the primacy of the public interest "which is the object sought to be achieved". In our view the primacy of the public interest cannot be allowed to be subjugated to the self interest of a few individuals on whom the State has already been spent considerable amount of money and time in bringing them to a level where they would start proving useful in achieving the objective of the Welfare State. The fact that the applicants are not allowed to appear in the C.S.E. 1992 in accordance with the provisions of Rule 4 (iv) (b) unless they resign from service to which they were allocated and appointed and which they have been serving since 1985/1986 in our view does not offend the provisions of the Articles 14 and 16 of the Constitution. We, therefore, reiterate the conclusion reached by us in **Alok Kumar's** (supra) judgement that the second proviso to Rule 4 of the CSE, Rules is valid and is not infraction of any constitutional provisions. The above view of the Tribunal has since been upheld by the Hon'ble Supreme Court in the case of **Mohan Kumar Singhania v. UOI decided on 13.9.91.**

In the circumstances of the case, we are not persuaded to consider the prayer of the applicants. The O.A. is, therefore, dismissed at the admission stage itself.

*J. P. Sharma*  
(J.P. SHARMA)  
MEMBER(J)

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

3.2.1992.