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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. NO. 2623/92 .. Date of decision: 19.2.93
Sh. A. Subbiah .. Applicant
Versus
Union of India .. Respondents
Sh. A.K. Behra .. Counsel for the applicant
Sh. P.H. Ramchandani .. Counsel for the respondents

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Hon'ble Sh. P.K. Kartha, Vice Chairman (J)

Hon'ble Sh. B.N. Dhoundiyal, Member (A)

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

J U D G E M E N T

(Of the Bench delivered by Hon'ble Sh. B.N.
Dhoundiyal, Member(A))

The applicant, a member of Indian Revenue Service, is aggrieved that he has been denied the appointment to the Indian Administrative Service on the basis of Civil Services Examination, 1991, even though he had secured Rank No. 29 in All India Merit List.

2. On the basis of the Civil Services Examination, 1987, the applicant was appointed on 21.12.90 in Indian Revenue Service. In January, 1991, he applied for appearing in the Civil Services (Preliminary) Examination, 1991. The applicant was allowed to appear in the examination

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but this examination itself was cancelled and was again held on 29.9.91. The result was declared on Nov. 1991 and the applicant was successful. He then applied for the Civil Services (Main) Examination, 1991 and he was allowed to appear in the Main Examination ^{by} held from 14.2.92 to 20.3.92. The results of this examination were announced in July, 1992 and the applicant was again successful. Vide communication dated 14.8.1992, he was asked to undergo ^{and ~~for~~} medical examination/en 27.8.92, he appeared in the interview. On 14.9.92, the final results of the Civil Services Examination, 1991 were declared and the applicant secured Rank No. 29. As there were 80 vacancies (62 general and 18 reserved for SC/ST), the applicant had every reason to hope that he would be called for the Foundational Course. On 15.9.91, ^a mark sheet was issued to him by the UPSC with the remarks "Recommended". In the last week of September, 1992, the Ministry of Personnel instructed all successful candidates to join the Foundational Course on 12.10.92, and subsequently allocated the first 62 candidates to IAS. However, the applicant was neither called for the Foundational Course nor was allocated to IAS. The applicant has also referred to Ministry of Home Affairs O.M. dated 19.3.64 and Department of Personnel O.M. dated 2.3.70 which enjoin on all Government Organisations to forward the applications of persons belonging to Scheduled Castes/Scheduled Tribes for employment elsewhere

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so as to improve their career prospects. The denial of appointment to him is against the spirit behind these orders.

The following reliefs have been prayed for :-

- i) direct the respondents to appoint him in Indian Administrative Service on the basis of his results in the Civil Services Examination, 1991;
- ii) direct the respondents to give all consequential benefits to him;
- iii) direct the respondents to pay the costs of the legal proceedings;
- iv) pass any other ^{order} ~~or~~ direction which this Hon'ble Tribunal thinks fit and proper in the facts and circumstances of the case.

3. On 12.10.92, this Tribunal passed an interim order directing the respondents to provisionally allow the applicant to join the foundational course and professional training of the Indian Administrative Service at Lal Bahadur Shastri National Academy of Administration, Mussoorie alongwith 1992 batch and to provisionally allocate him to IAS cadre. After hearing both the counsel on interim relief, this order was vacated by another order on 13.11.92.

4. The respondents have stated that the Union Public Service Commission conducts the Civil Services Examination on the basis of rules notified for the purpose. The second proviso to Rule 4 of the Examination Rules provides, inter-alia, that a candidate appointed to the I.P.S. or Central Services (Group 'A') on the basis of the Civil Services Examination is not eligible to appear in the Examination again unless

he has first resigned from service. Thus, the applicant who was appointed to I.R.S. on the results of the C.S.E., 1989 was not eligible to appear at the 1991 Examination. However, he appeared at the 1991 'Main' examination on the basis of interim order passed by this Tribunal on 4.2.92 in M.P. No.346/92 in OA No.2072/91 filed by Sh.Debasis Roy and others. OA 2072/91 was, however, dismissed as withdrawn by judgement dated 18.9.92. The results were declared provisionally and only those candidates whose results had been fully cleared by the UPSC could be permitted to join training. Had this Tribunal not issued the aforesaid interim order, the applicant would not have been permitted to appear in the 1991(Main) Examination.

5. We have gone through the records of the case and heard the learned counsel for the parties. The learned counsel for the applicant has relied on the judgements (a) Sh. Krishan Vs. Kurukshetra University, AIR 1976 SC 376 (b) Nilamadhaba Nanda & Ors. Vs. Orissa University of Agriculture and Technology & Anr, AIR 1983 Ori. 17) to press the point that having allowed the applicant to cross the threshold of the examination without questioning his eligibility, the respondents are estopped from questioning the same at this stage. They are bound by the principles of permissory estoppel as held by the Supreme Court in the case of Motilal Padampat Sugar Mills Vs. State of U.P.-1979(2) SCC 409. In view of the aforementioned cases, it was

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argued that the applicant should have been disallowed before the commencement or in the course of the examination. However, these cases referred to the University Examinations where the element of competition for limited number of posts is not there and where allowing students to appear in the examination does not affect the interest of others in a prejudicial manner. As the learned counsel for the respondents has emphasised, the main issues raised in this O.A. ^{has} already been considered by this Tribunal in its judgement dated 20.8.90 in O.A. No.206/89(Alok Kumar & Others Vs. U.O.I) and the Supreme Court in Mohan Kumar Singhania & Ors.(J.T. 1991(6) S.C. 261). It was held that the second proviso to Rule 4 of the CSE Rules introduced by Notification dated 13.12.86 is legally and constitutionally valid and sustainable in law, and the said proviso neither travels beyond the intent of the main rules, namely Rule 4 of the CSE Rules nor it is ultra-vires Regulation 4(iii-a) of Regulations, 1955, that it is neither arbitrary nor unreasonable and that there is a dynamic and rational nexus between the impugned second proviso and the object to be achieved. There is ^{no} discrimination whatsoever involved on account of the introduction of the second proviso in question and the said proviso is not ultra vires Article 14 or Article 16 of the Constitution of India. ^{Av}

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The question of applicability of clause to Scheduled Caste and Scheduled Tribes candidates was also examined and Supreme Court the Court held that the second proviso to Rule 4 was equally applicable to the candidates belonging to SC/ST as the restriction imposed therein is only for a specified category of candidates by treating all such candidates at par.

6. In view of the above, we see no merit in the present application and the same is hereby dismissed.

There will be no order as to costs.

B.N. Dheundiyal
(B.N. Dheundiyal) 19/2/93.
Member (A)

P.K. Kartha
(P.K. Kartha) 18/2/93
Vice Chairman (J)