

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
* * *

O.A. NO. 2680/92

Date of Decision : 27.11.92

Society of Depressed People
for Social Justice (Regd.),
New Delhi & Another

...Applicants

Vs.

Union of India & Others.

...Respondents

CORAM

Hon'ble Shri P.C. Jain, Member (A)

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicants

...Shri P.L. Mimroth

For the Respondents

...None

JUDGEMENT

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J))

Society of Depressed People for Social Justice,
(hereinafter referred to Society) filed this application
under Section 19 of the Administrative Tribunals Act, 1985
for appropriate direction to the respondents for amending
the Indian Administrative Service Recruitment
Rules, 1954 with a view to provide reservation for SC/ST
officers to be selected/recruited either by promotion
or by special selection. The applicant has also
assailed the letter No.F(6)(i) PARS/A.i/91 dt. 17.3.1992
(Annexure A1).

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2. We heard the learned counsel for the applicants on admission as well as jurisdiction. Applicant No. 2, Shri M.L. Parihar is working as Managing Director, Rajasthan Bank Cooperative Limited, Jaipur. According to Rule 4(c) of the Indian Administrative Service Recruitment Rules, 1954, the recruitment/selection to the service is also by selection in special cases from amongst persons, who hold in substantive capacity gazetted post in connection with the affairs of a state and who are not members of State Civil Service. Under Rule 8(2) of the Recruitment Rules, the Central Government may in special circumstances and on the recommendations of the State Government concerned and in consultation with the Commission and in accordance with such regulation as the Central Government may after consultation with the State Governments and the Commission recruitment from time to time may make to the service any person of outstanding ability and merit serving the concerned state who is not a member of State Civil Service of the State (But who holds a gazetted post in a substantive capacity).

3. The appointment under Rule 7 of the IAS Recruitment

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Rules, 1954 are subject to orders regarding special representation in the service for SC/ST issued by Central Government from time to time in consultation with the State Government. Thus for this lateral source of recruitment under the category of special selection under Rule 4(c) of the aforesaid Rules, the names are sponsored by the State Government and after the names are sponsored, recommendation is made as per the procedure laid down in the IAS (Appointment by Selection) Regulations, 1956. The grievance of the applicants is that the element of reservation for SC/ST do not apply on the post of administrative service filled in by way of promotion amongst the members of the State Civil Service and by selection from among the officers, who held gazetted posts in connection with the affairs of the state and are not members of the State Civil Service.

Applicant No.2 alleges himself to be one of such most outstanding and meritorious officers belonging to SC/ST community, who is holding the gazetted post in the cadre of Non State Civil Service. But he could not be selected, as alleged, by the Selection Committee, for want of reservation element. He has, therefore, assailed the

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order of the Government of Rajasthan by which he has been directed to appear before an interview by a Selection Committee on 24.3.1992. The only question that arises is whether this Tribunal has jurisdiction to consider the grievance of applicant No.2 and give a direction to the State Government to propose the name of the applicant for promotion to IAS under 1956 Regulations. It is manifest from a plain reading of the 1956 Regulations that the State Government has to propose the names of the officers who are outstanding in merit and ability and who satisfy the requirements of Regulation 3(1). Unless the name is recommended by the State Government, the Union of India as well as the UPSC do not come into the picture at all till the stage of placing the proposals of the State Government for the purpose of selection to the IAS by the Selection Committee. A similar question came before the Bangalore Bench of the Central Administrative Tribunal in the case of L.R. Lewis Vs. State of Karnataka & Ors., reported in 1992 (21) ATC p-773 and it has been held that, "Any grievance of the applicant for non inclusion of his name for selection to IAS under 1956 Regulations either by the State Government and Union Government and the UPSC would

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not come into the picture till their names are proposed by the Government for selection to the IAS and that being so, the applicants in such cases may have to seek remedy before any other forum and not before this Tribunal." The impugned order dt. 17.3.1992 (Annexure A1) is issued by the Government of Rajasthan wherein the applicant has been called to appear in the interview before the Selection Committee at the Government Secretariat, Jaipur. Thus in view of the above circumstances, the Tribunal has no jurisdiction in the matter of the applicants unless his name is forwarded to the Central Government according to IAS (Appointment by Selection) Regulations, 1956.

3. Regarding the other reliefs, prayed for, that a direction be issued to the respondents for effecting suitable amendments in the IAS Recruitment Rules, 1954 as per the authority of the Hon'ble Supreme Court in the case of State of Jammu & Kashmir vs. A.R.Zakki & Ors.. Para.10 of the same is reproduced below :-

"In our opinion, there is considerable merit in this submission. A writ of mandamus cannot be issued to the legislature to enact a particular legislation. Same is true as regards the executive when it exercises the power to make rules, which are in the nature of subordinate legislation. Section 110 of the J & K Constitution, which is on the same lines as Article 234 of the Constitution of India, vests in the Governor, the power to make rules for appointments of persons other than the District Judges to the Judicial Service of J & K and for framing of such rules, the Governor is required to consult the Commission and the High Court. This power to frame rules is legislative

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in nature. A writ of mandamus cannot, therefore, be issued directing the State Government to make the rules in accordance with the proposal made by the High Court."

4. In view of the above discussion, the Tribunal has no jurisdiction to entertain this application. It is neither necessary nor appropriate for us to go into the merits of the claim. The application is accordingly dismissed for want of jurisdiction by the Tribunal at the admission stage itself. No costs.

Sharma

(J.P. SHARMA)
MEMBER(J) 27.11.92

(C.L.J. 27/11/92)
(P.C. JAIN)
MEMBER(A)