

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

NEW DELHI, THIS THE 15th DAY OF JULY, 1999

HON'BLE MR. JUSTICE K.M. AGARWAL, CHAIRMAN
HON'BLE MR. N. SAHU, MEMBER (A)

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O.A.No.2602/93

Vivek Saxena
Sk/o Shri Harimohan Saxena
R/o C-116 Sector H
Harsh Vihar, Aliganj
Lucknow (U.P.)

... Applicant

(None for the applicant)

vs.

1. Union of India, through
Secretary,
Ministry of Environment & Forests,
Paryavaran Bhawan, CGO Complex,
Lodi Road, New Delhi.
2. Director, Indira Gandhi National
Forest Academy, P.O. New Forest,
Dehradun, Uttar Pradesh. ... Respondents

(By Advocate Shri V.S.R. Krishna)

O.A.No.2603/93

Shri Rajiv Singh Panwar
S/o Shri Harlal Panwar
Presently residing at Indira Gandhi
National Forest Academy Hostel and working
as Indian Forest Service 1991 Batch,
(Probationer and undergoing training at
Indira Gandhi National Forest Academy,
Dehradun, U.P.)

... Applicant

(None for the applicant)

vs.

1. Union of India, through
Secretary,
Ministry of Environment & Forests,
Paryavaran Bhawan, CGO Complex,
Lodi Road, New Delhi.
2. Director, Indira Gandhi National
Forest Academy, P.O. New Forest,
Dehradun, U.P. ... Respondents

(By Advocate Shri V.S.R. Krishna)

O.A.No.2604/93

Anup Kumar Shrivastava
S/o Shri Shyam Sunder Lal Shrivastava
Presently residing at Indira Gandhi
National Forest Academy Hostel and working
as Indian Forest Service 1991 Batch, Probationer
and undergoing training at Indira Gandhi
National Forest Academy
Dehradun, U.P.

... Applicant

(None for the applicant)

vs.

1. Union of India, through
Secretary,
Ministry of Environment & Forests
Paryavaran Bhavan, CGO Complex
Lodi Road, New Delhi.

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2. Director, Indira Gandhi National
Forest Academy, P.O. New Forest
Dehradun, U.P.

... Respondents

(By Advocate Shri V.S.R. Krishna)

O.A.No.2721/93

K. Elangovan
S/o Shri Kamala Kannan
R/o 35, 3/Mixed Block
Edgars Quarters
KGF, Karnataka
Pin: 563 119

... Applicant

(None for the applicant)

vs.

1. Union of India
through the Secretary of
Ministry of Personnel, Public
Grievances & Pensions,
North Block,
New Delhi.
2. Chief Secretary,
State of Karnataka,
Karnataka Secretariat,
Bangalore.
3. Chief Secretary,
State of Kerala,
Kerala Secretariat,
Trivandrum.
4. Director, Lal Bahadur Shastri
Academic Administration,
Mussorie.

... Respondents

(By Advocate Shri V.S.R. Krishna)

O.A.No.2647/93

A. Sunil Achaya
S/o A.K. Achaya
R/o Rosary Estate
Nokaya P.O.
S. Coorg-571 254
Karnataka

... Applicant

(None for the applicant)

vs.

1. Union of India through
the Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.

2. *Ym* Secretary,

2. Secretary,
Ministry of Personnel, Public
Grievances & Pensions,
North Block,
New Delhi.

3. The Secretary (Home)
State of Nagaland,
Nagaland Secretariat,
Kohima

4. The Secretary (Home)
State of Karnataka
Karnataka Secretariat,
Bangalore.

.. Respondents

(By Advocate Sh.V.S.R.Krishna)

O.A.No.2723/93

Taliakhum J.Longkumar
S/o Sh.Assamwati Longkumar
R/o C/o S.I.Jamir
Hotel Saramati
Naga Super market Complex
Dimapur,
Nagaland
Pin: 797 112

... Applicant

(None for the applicant)

vs.

1. Union of India through
the Secretary, Ministry of
Home Affairs,
North Block,
New Delhi.

2. Secretary,
Ministry of Personnel,
Public Grievances & Pensions
North Block,
New Delhi.

3. The Secretary(Home)
Sstate of Nagaland
Nagaland Secretariat,
Kohima.

... Respondents

(By Advocate Shri N.S.Mehta)

ORDER

JUSTICE K.M. AGARWAL:

The applicants in the aforesaid O.As appeared
in the Civil Services Examination held in 1990, 1991
or 1992. They were selected for appointments to I.F.S,
I.P.S. or I.A.S. cadre. By the impugned orders they
were respectively allocated Haryana, Gujarat,
Meghalaya, Nagaland, Madhya Pradesh and Kerala cadres.

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They claim that after quashing the impugned allocation of cadres, they be respectively allocated U.P., Haryana, Tamilnadu, Karnataka, Nagaland and Karnataka cadres.

2. Dispute similar to that raised in the present O.As was considered by the Supreme Court in UNION OF INDIA AND OTHERS vs. RAJIV YADAV, IAS AND OTHERS, (1994) 28 ATC 228 (SC) and it was held in paragraph 6 of the judgment that:

"6..... A selected candidate has a right to be considered for appointment to the IAS but he has no such right to be allocated to a cadre of his choice or to his home State. Allotment of cadre is an incidence of service. A member of an all-India Service bears liability to serve in any part of India. The principles of allocation as contained in clause (2) of the letter dated 31.5.1985, wherein preference is given to a Scheduled Caste/Scheduled Tribe candidate for allocation to his home State, do not provide for reservation of appointments or posts and as such the question of testing the said principles on the anvil of Article 16(4) of the Constitution of India does not arise. It is common knowledge that the Scheduled Caste/Scheduled Tribe candidates are normally much below in the merit list and as such are not in a position to compete with the general category candidates. The "Roster System" ensures equitable treatment to both the general candidates and the reserved categories. In compliance with the statutory requirement and in terms of Article 16(4) of the Constitution of India 22½% reserved category candidates are recruited to the IAS. Having done so both the categories are to be justly distributed amongst the States. But for the "Roster System" it would be difficult rather impossible for the Scheduled Caste/Scheduled Tribe candidates to be allocated to their home States. The

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principles of cadre allocation, thus, ensure equitable distribution of reserved candidates amongst all the cadres." (26)

In UNION OF INDIA vs. MHATHUNG KITHAN, (1996) 10 SCC 562, it was further held by the Supreme Court that there was no rule providing for "a carry-over of 'insider' vacancies if they are not filled due to non-availability of insider candidates" and that:

"In the policy statement of 30.7.1984, a reference was made to the fact that State service officers who get promoted to IAS/IPS are in the age group of 40 to 50 and at that late stage, their transfer to another State cadre may give rise to personnel and administrative problems of adjustment. Therefore, in order to restore the outsider-insider balance in a State cadre, it was proposed that the outsider element in the direct recruitment quota required to be increased. In this context it is difficult to accept the contention of the first respondent regarding carry-forward of 'insider' vacancies. The roster is framed bearing in mind this requirement of increasing outsiders in the quota of direct recruits. The policy required that at least 66-2/3% of the officers who are directly recruited are from outside the State concerned. It does not impose a ceiling of 66-2/3%".

3. In the light of the aforesaid decisions of the Supreme Court, we are of the view that the applicants have no case in their said O.As and, therefore, all the O.As are liable to be dismissed.

4. Accordingly all the O.As are hereby dismissed, but without any order as to costs.

Attested

(K.M. AGARWAL)
CHAIRMAN

15/2/89
Court Officer
Central Administrative Tribunal
Principal Bench
District House, New Delhi

(N.SAHU)
MEMBER (A)