

45

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O. A. No. 522 of 1993

New Delhi, this the 16th day of March, 1999

HON'BLE MR. JUSTICE S. VENKATRAMAN, VICE CHAIRMAN (J)
HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Ms. Rachna Sharma, W/O Sh. Amand Shah,
Permanent R/O 103, Rabindra Nagar, New
Delhi - 110 003.

--APPLICANT.

(By Advocate Sh. G.D. Gupta)

Versus

1. Union of India through the Secretary
to the Govt. of India, Ministry of
Personnel Public Grievances &
Pensions, North Block, New Delhi.
2. Govt. of Kerala through its Chief
Secretary, Kerala Govt.
Secretariat, Trivandrum, Kerala.
3. Govt. of Haryana through its Chief
Secretary, Haryana Govt.
Secretariat, Chandigarh.
4. Govt. of Gujarat through its Chief
Secretary, Gujarat Govt.
Secretariat, Gandhi Nagar, Gujarat

--RESPONDENTS.

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

ORDER

By Hon'ble Mr. Justice S. Venkatraman, Vice Chairman (J)

The applicant is aggrieved by the allotment of Kerala State to her and has sought for a direction to the respondents to allot her to the I.A.S. cadre of State of Gujarat or in the alternative to the I.A.S. cadre of State of Haryana with all consequential benefits.

2. The applicant appeared for the Civil Services Examination of 1990 and she belongs to I.A.S. of 1991-batch. She was appointed w.e.f. 15.9.1991 and after training she was relieved on 27.5.92 for undergoing District Training in Kerala, the State to which she was

2

allotted. As per the principles of allocation, vacancies to be filled up in each cadre are divided into two categories, namely, vacancies to be filled up by insiders i.e. candidates hailing from the States concerned and vacancies to be filled up by outsiders. The insider-outsider ratio is 1:2 and the same is worked out by following the continuous 30 point roster. The 30 point roster operates in cycles of outsider-insider-outsider. There is no dispute about the general method of cadre allocation and roster system. It is also not disputed that considering the prevailing law and order situation in Jammu & Kashmir and in the North-Eastern States of Assam-Meghalaya, Manipur-Tripura and Nagaland, Govt. of India took a decision not to allot women All India Services Officers to the said cadres for a period of five years starting from the Civil Services Examination, 1989. As per the decision if a woman officer gets any of the said cadres in the roster, she will be removed from the roster and allotted a cadre, other than her home State by a separate roster in accordance with the maximum net available cadre gap.

3. The applicant was initially allotted to Assam-Meghalaya according to normal roster. But in view of the above policy, her name was removed from that roster and she has been allotted to the State of Kerala. Applicant's case is that because the last candidate in the general category roster, Mr. Rajit Punhani had been allotted to Bihar Cadre and as her name was placed at the bottom of the roster, she became entitled to be allotted to Gujarat State which was the next available State in alphabetical order. According to her, even if she had to

be allotted a State in accordance with the maximum net available cadre gap, she would have been entitled to be allotted to State of Haryana as the net available cadre gap was maximum in Haryana. According to her, the allotment of Kerala to her is not in accordance with the decision taken by the Govt. itself and as such that allotment has to be quashed and she should be given either Gujarat or Haryana.

4. The respondents in their reply have pleaded that while fixing a suitable cadre for a woman candidate, who has been allocated North-Eastern States of Jammu & Kashmir etc. and Punjab Cadre, the following criteria were kept in view, namely, the lady candidate would be allocated in the order of merit, to those cadres immediately following the cadre to which the lady candidate of this category, was allotted last year provided that :-

- i) the cadre is not her home State;
- ii) a positive cadre gap exists, and
- iii) the next available vacancy in the cadre is not an 'insider' vacancy.

5. The respondents have denied that the applicant became entitled to be allotted either to Gujarat or Haryana and they have contended that the next available vacancy in those States were insider vacancies and the applicant could not be allotted to those States. According to the respondents, this policy was evolved to

48

ensure that the insiders' vacancies of the States are not allocated for such women candidates. They have pointed out that the previous concurrence of State authorities has to be obtained before a person is posted to that cadre, as provided in the rules, and that there have been instances when the cadre authorities refused to take such candidate. The respondents have contended that applying the criteria, as referred to above, the applicant has been allotted to Kerala.

6. Learned counsel for the applicant strenuously contended that the policy followed in allotting the cadre to a woman officer, who has been removed from the general roster to avoid the disturbed area does not indicate that such a woman officer would not be eligible for an insider vacancy, that earlier in similar cases, women officers have been given insider vacancies and that the present objection taken by the respondents is only an afterthought. He pointed out that the net cadre gap was 22 in Haryana, while net cadre gap is only 14 so far as Kerala is concerned and as such, the applicant should have been allotted to Haryana and there was no basis to allot her to Kerala. The cadre gap in Gujarat is shown as 5. The respondents have produced (Annexure R-I) which is the Statement of cadre gap in Direct Recruitment Quota as on 18.12.1991. In fact, learned counsel for the applicant contended that this statement also cannot be relied on as the cadre gap as on 1.1.1992 was the only relevant factor, we cannot accept^{that} there would ~~not~~ have been much difference in the cadre gap as on 18.12.1991 and as on 1.1.1992. As the cadre gap in Gujarat was only 5, that gap is lesser than the cadre gap in Kerala. It

2

is no doubt true that in Haryana the cadre gap was more. The main reason given by the respondents for not allotting Haryana is that the next vacancy in the roster has to go to an insider and as such that could not be given to the applicant who is an outsider.

7. we are not impressed by the contention of learned counsel for the applicant that the plea that the woman officer, whose name has been removed from the general roster, cannot be given an insider vacancy, is only an afterthought. The respondents, in their reply, have pointed out that though in the case of 1989 examination, the only criteria adopted to allocate lady candidate of this type, was the largest cadre gap, experience proved that such indiscriminate allocation would deprive the insiders of being allocated to their home State in the next vacancy.

8. The States concerned will have to be consulted before an officer is posted to the cadre of that State and there is logic in the plea of the respondents that if the insider vacancy in the roster is sought to be given to the outsider, the States concerned would object and that such a method deprived the State of insider vacancy and that as such in the subsequent allocation to Kerala cadre, this additional condition of the vacancy, not being an insider vacancy, was also taken into account. Merely, because in Annexure-5 which is an extract of reply filed in another case, wherein the question of allocation of candidates of 1989 Examination was involved, the respondents had not referred to the condition that the vacancy should not be of an insider,

it cannot be stated that such a criteria was not adopted for the 1991-batch. The manner in which the allotment of the cadre is made is in the discretion of the Govt. and there is no bar for the Govt. modifying the earlier policy or following new guidelines, taking into consideration the practical problems, when allotment is made in a particular year. No mala fides are attributed to the respondents and there is no reason why the respondents should put-forth a criteria only to defeat the claim of the applicant. The criteria or new guideline followed in the instant case, by the respondents, cannot be characterised as arbitrary. In fact, the respondents have produced material to show that some States have declined to accept candidates who were proposed to be allotted to those States. In fact, Annexure R-5 shows that Gujarat has declined to accept seven Probationers of 1991-batch and have agreed to take only two and Annexure R-6 shows that Haryana has declined to accept any of the seven Probationers allotted to that State which shows that the two States for which the applicant has given preference, were not prepared to accept the 1991-batch Probationers.

9. Learned counsel for the applicant pointed out that as per Annexure R-1, Bihar had 18 cadre gap and the next vacancy was outsider vacancy and as such, the applicant should have been allotted to Bihar. Firstly, the applicant's claim is only for allotment to Gujarat and Haryana. Secondly, as per the criteria, the lady candidate of this type, in question, will have to be allocated to the cadre immediately following the cadre to which the lady candidate of that category was allotted in

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the previous year. The applicant has not made any claim for allotment to Bihar and we do not know whether she would have been eligible for allotment to Bihar in view of the above criteria an examination of the basis adopted for allocation of cadre for officers of the type to which applicant belongs, we do not find anything wrong in the allotment of Kerala to the applicant.

10. The applicant has been appointed to an All India cadre and she has no right to claim that she should be allotted to any particular State. In Union of India & Others Vs. Rajiv Yadav, IAS & Others 1994 (28) ATC 228, the Hon'ble Supreme Court dealing with the right of a candidate for allotment as well as the obligations of the Central Government in that regard has held as under:-

"5. We have given our thoughtful consideration to the reasoning and the conclusions reached by the tribunal. We are not inclined to agree with the same. Rule 5 of the Cadre Rules provides that the allocation of the members of the IAS to various cadres shall be made by the Central Government in consultation with the State Government or the State Governments. Sub-rule (2) of Rule 5 further provides that a cadre officer can be transferred from one cadre to another. When a person is appointed to an all-India Service, having various State Cadre, he has no right to claim allocation to a State of his choice or to his home State. The Central Government is under no legal obligation to have options or even preferences form the officer concerned. Rule 5 of the Cadre Rules makes the Central Government the sole authority to allocate the members of the service to various cadres. It is not obligatory for the Central Government to frame rules/regulations or otherwise notify "the principles of allocation" adopted by the Government as a policy.

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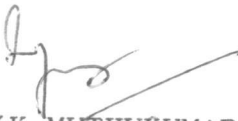
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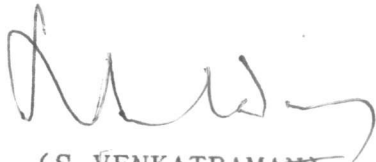
6. We may examine the question from another angle. A selected candidate has a right to be considered for appointment to the IAS but he has no such right to be allocated to a cadre of his choice or to his home State. Allotment of cadre is an incidence of service. A member of an all-India Service bears liability to serve in any part of India."

11. It is seen that the applicant has no right to claim allotment to any particular State. The learned counsel for the applicant contended that if the respondents do not follow the policy or guidelines laid down by themselves and arbitrarily allot a State, the applicant is entitled to challenge the same. We have pointed out that the allotment of Kerala to the applicant does not run counter to the criteria evolved by the Govt. for the purpose of such allotment and we are unable to hold that the allotment of Kerala to the applicant is arbitrary.

12. For the above reasons, the application fails and the same is dismissed. Parties shall bear their own costs.


(K. MUTHUKUMAR)
MEMBER (A)

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(S. VENKATRAMAN)
VICE CHAIRMAN (J)