

Reserved:

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

O.A. No. 157 of 1993

Sudhansu Kumar Gaur Applicant.

Versus

Union of India
and others Respondents.

...

Hon. Mr. Maharaj-Din, Member(J)

Hon. Mr. S. Das Gupta, Member(A)

(By Hon. Mr. S. Das Gupta, Member(A))

The applicant, in this Original Application filed under Section 19 of the Administrative Tribunals Act, 1985 has prayed that the order dated 4.1.1993 (Annexure-A 1) issued by the respondent no.2 by which the applicant was informed that he should not be allotted to the Indian Revenue Service (I.R.S. for short) be quashed and that the respondents be directed to allocate the applicant IRS on the basis of the Civil Services Examination, 1991.

2. The applicant appeared in the Civil Services Examination, 1991. He was declared successful and he obtained 317th rank among the successful candidates. He was directed to report for training at the National Academy of Direct Taxes, Nagpur for Foundational Course by the letter dated 29.6.1992 (Annexure- A 2). While submitting his application form for the examination, the applicant gave his order of preference for various services in which the IRS was given the IVth preference. On the declaration of the result on 19.9.1992, the

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applicant exercised his option available under rule-2 of the Examination Rules and gave a revised order of preference for various services by his letter dated 25.9.1992 (Annexure- A 1) in which he indicated IRS as his IInd preference while the Indian Audit and Accounts Service(IA&AS for short) was indicated as his IIIrd preference.

3. On 19.11.1992, a tentative allotment was made and the applicant was allocated to the IRS. However, when the final list of allocation of service was issued on 18.12.1992, the applicant was shown to have been allocated to the IA&AS . Against this re-allocation of service, the applicant submitted a representation vide his letter dated 26.11.1992 (Annexure- A 4). Thereupon, the respondent no. 2 issued the impugned letter dated 4.1.1993(a copy of the letter ~~28~~ at Annexure-A 1 to the Ist Compilation, however, indicates that the date of issue of the letter is 30.12.1992) in which it was stated that in the final service allocation made by the respondents, the/ general candidate allocated to the IRS was ranked 316. The applicant being 317 in the merit list, could not be allotted to IRS. It is this decision of the respondents which is under challenge in this application.

4. The applicant's case is that his provisional allotment being to the IRS, there could not have been downward movement in his allocation after

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the final allotment ~~was~~ made. The applicant states that his preference for IRS was higher than his preference for the IA&AS. Thus, in the final service allotment, he was allotted to a service for which he had given ~~lower~~ preference than the service to which he was provisionally allotted. This, according to the applicant, is not possible and @ according to him, in the final allotment, there could be only ~~an~~ upward movement i.e. he could have been allotted to a service which he preferred more than IRS.

5. In a detailed counter reply filed, the respondents have explained the mechanism for allotment of service to the successful candidates. It has been stated that the allocation of candidates included in the ~~no~~ merit list to different services is made by the respondents in accordance with the rank of the candidates ~~in~~ the merit list and their preference for services exercised by them, subject to availability of vacancy in various services and the candidate's physical fitness etc for appointment to such services. It has been stated that the result of the Civil Services Examination, 1991 was announced on 19.9.1992, whereas, the foundational course was to commence on 12.10.1992. This foundational course is common for the candidates allotted to IAS/IFS/ IPS and Group-A services.

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The final service allocation could not be made for various reasons before the commencement of the foundational course. Some of the reasons indicated are that the data regarding the physical fitness or otherwise of the candidates for different services were not available at that time, nor were available the names of the candidates who were unavailable for allotment of service or ineligible for such allotment. A tentative service allocation was, therefore, made and the available candidates were directed to join the course. Since the results came only on 19.9.1992 it was not possible even to make tentative service allocation before the commencement of the foundational course and the same could be made only on 13.11.1992 and the candidates were directed to join the foundational course having been clearly told that the tentative service allocation would be communicated to them in due course.

6. The respondents have also stated that the allocation of service made in the provisional select list often undergoes changes in the final allocation due to various factors. In the instant case, although, the applicant was tentatively allocated to the IRS, subsequently ~~from~~ two other candidates who had obtained higher ranks viz 106 and 136, who were tentatively allotted to IPS, were finally allotted to IRS. This resulted in the exclusion of the applicant from the list of the candidates finally allotted to IRS and he was

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allotted the service of his next preference i.e.
IA&AS.

7. We have heared the counsel for both the parties and carefully gone through the records of the case.

8. Sri J.N. Tewari, learned counsel for the applicant strenuously argued that ~~being~~ in the provisional allotment, the applicant ~~being~~ allotted to the IRS, he could, by no means, be allotted to a service for which he gave a lower preference on final allotment. We ~~are~~ not, however, convinced by his argument as the same ~~has~~ no firm basis. The respondents, on the other hand, have very clearly explained how the allocation of service could undergo ~~no~~ change ~~in~~ the final service allotment. In any case, the reason why the applicant was excluded from the final list of allotment to IRS was because of the inclusion of two other candidates, who were originally not allotted to IRS. Both the candidates ranked much higher than the applicant. He would have a genuine cause of grievance, if either the candidates ranking lower than him in the merit list were allotted to IRS or in case it was shown that the allotment of the candidates ranking 106 and 136 in the final allotment was by any unfair means. It is not the case of the applicant that the candidates lower than him in the merit

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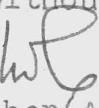
were allotted to IRS, nor has he alleged that there was any manipulation by which the candidates who ranked ~~above~~ him and who were originally allotted to IRS were finally allotted to IRS. We do not, therefore, find any merit in this application and the same deserves to be dismissed. The learned counsel for the applicant, however, made a plea that in case we do not find any merit in the application, we might direct the respondents to allow him to join in the IA&AS.

9. We have given our anxious considerations to this plea. The applicant was allotted to IA&AS as far back as on 18.12.1992 and he was directed to report for training in National Academy of Audit and Accounts on 28.12.1992. The applicant initially requested for and was granted time upto 15.1.1993 on the ground of illness of his mother. After this period expired, he filed another application for grant of time till 1.2.1993 to which, however, there does not appear to be any reply. More than a year has passed since then, i.e. the applicant chose not to report for training so long and in any case, the training for the candidates of 1991 examination must have been over long back, he has done so at his peril. The Tribunal cannot come to his rescue when he has taken a particular step with full knowledge of the consequences. We cannot, therefore, give any direction to the respondents in this regard. It is for the applicant to make appropriate

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representation in this regard to the respondents and it is for the respondents to consider such representation , if submitted by the applicant.

10. In view of the foregoing, the application is dismissed without any order as to costs.


Member (A)


Member (J)

Dated: 27th May, 1994.

(n.u.)