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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 36 OF 1994.

CUTTACK, this the 3rd day of February, 1998.

SRIKANTA PRUSTY.

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Applicant.

-Versus-


UNION OF INDIA & OTHERS.


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Respondents.

(FOR INSTRUCTIONS)

1. WHETHER it be referred to the reporters or not? Yes,
2. WHETHER it be referred to all the Benches of the Central Administrative Tribunal or not? NO.


(S.K. AGARWAL) 3/2/98
MEMBER (JUDL.)


(SOMNATH SOM)
VICE-CHAIRMAN 3.2.98

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 36 OF 1994.

CUTTACK, this the 3rd day of February, 1998

C O R A M:-

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

&

THE HONOURABLE MR. S.K. AGARWAL, MEMBER (JUDL.)

IN THE MATTER OF:

SRIKANTA PRUSTY,
aged about 29 years,
S/o. Sankarsan Prusty,
At-Bankapatuli, P.O.-Pipilia,
District-Keonjhar.

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Applicant.

By legal practitioner:- M/s. S.K. Gajendra, S.K. Ojha,
Advocates.

- Versus -

1) Government of India,
Ministry of Personnel
P.G. & Pensions Deptt.,
of Personnel & Training,
NEW DELHI-1.

2) Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi-110011 represented by
its Secretary.

3) Government of India, Ministry of Communications,
Department of Posts, S.P.G. Section, Dak Bhawan,
Sansad Marg, New Delhi-110001.

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Respondents.

By legal practitioner:- Mr. S.C. Samantray, Additional
Standing Counsel (Central).

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:-

In this application, under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to Respondent No.1 to allot the applicant to Indian Railway Personnel Service or any other service of his higher preference. There is also a prayer for declaration that non-allotment of service in favour of the applicant, as per his position in the merit list and as per the order of preference given by him amounts to hostile discrimination.

2. The facts of this case fall within a small compass and can be briefly stated. According to the applicant, he appeared in the Civil Services (Main) examination in the year 1992. This examination is conducted for entry into large number of services and the intending applicants are required to intimate their preference in their application forms. Accordingly, the applicant gave the following preferences;

1. Indian Administrative Service;
2. Indian Police Service;
3. Indian Customs & Central Excise Services Gr.A;
4. Indian Revenue Service Group 'A'.;
5. Indian Railway Personnel Service Group 'A' and so on.

Admittedly, Rule-2 of Civil Services Examination, 1992 provides

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that 'No request for revision, alteration or change in the preferences indicated by a candidate in respect of service/ posts for which he/she would like to be considered for allotment would be considered unless the request for such alteration, revision or change is received in the office of the UPSC, within 30(thirty) days of the date of publication of the results of the written part of the main examination in the Employment News'. Applicant's case is that, within 30(thirty) days of the date of publication of the results, of the written part of the main examination, the applicant, submitted a revised set of preference in his letter dated 03-05-1993. In this preference letter, he indicated his preferences in the following manner;

1. Indian Administrative Service;
2. Indian Police Service;
3. Indian Customs & Central Excise Service Group 'A';
4. Indian Revenue Service Group 'A';
5. Indian Foreign Service;
6. Indian Railway Traffic Service Group 'A';
7. Indian Postal Service Group 'A' and so on.

The Respondent No.2 i.e. Union public Service Commission intimated the applicant in their letter dated 18.06.1993 (Annexure-1) that all preferences received in the Commission's Office upto 03-05-1993 have been entertained. Apparently,

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the applicant sent a further preference which was received in the U.P.S.C. on 07-06-1993 and in the second part of the letter, at Annexure-1, U.P.S.C., informed the applicant that as his request for alteration of preferences has been received in this Office on 07-06-1993, after the prescribed date, the same can not be entertained. However, the preferences indicated by the applicant, in his application for Civil Services (Main) Examination, 1992 have been taken into consideration. Applicant was given an intimation by the Deptt. of Personnel & Training, in their letter dated 14-08-1993, at Annexure-2, that he has been allotted to Indian Postal Service Group 'A' and he was intimated to join the foundation course in LBSNAA, Mussoorie on 5.9.1993.

3. Applicant submits that on receipt of this communication, he made enquiry and found that the choice indicated by him in his Civil Services (Main) Examination application form, has been taken into consideration as per the letter dated 18.6.1993 at Annexure-1. He has further stated that his position in the final merit list is 356 and he was entitled to be allotted a service of higher preference given by him including the Indian Railway Personnel Service. Applicant, accordingly, sent a telegram to the Director, Postal Staff College, Ghaziabad, which is at Annexure-4, in which he intimated that he is not joining postal service in protest against wrong job allotment and "he is" going for C.A.T.". He sent a representation dated 21.1.1994

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(Annexure-5) addressed to the Under Secretary, Government of India, Departmental of Personnel & Training, New Delhi but as no reply was received by him, he has come up with the prayers referred to earlier.

4. The Respondent No.1, Ministry of Personnel & Training, has filed counter and Respondent No.2, Union Public Service Commission has submitted a separate counter. Respondent No.2 has submitted in the counter that after the applicants to the main examination have given their preferences for different services in their application for the main examination, applicants were given a chance, ~~chance~~, under Rule-2 to express their preferences for various services but such choice must be exercised, under the rule, within 30 (thirty) days from the publication of the written part of the results. Accordingly, in respect of 1992 Civil Services (main) examination, the last date of receiving such request within 30 days of the publication of the written part of the examination results was 03-05-1993. The applicant's request was received in the Commission's Office, by hand, in time on 03-05-1993. This was duly entertained and incorporated in his application form and his preference for different services was accordingly changed. Applicant sent a further request changing his preferences which was received in the Commission's

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Office on 07-06-1993 after a delay of one month and four days. As, under the Rules, this set of preferences could not have been considered, the applicant was informed that this set of preferences ~~can~~ not be considered and his preference will be taken into consideration/account as per the preference given by him in the original application which had in the meantime been corrected as per his first preference given on 03.05.1993. U.P.S.C., in their counter, have pointed out that in his second preference received by the Commission Office on 7.6.93, he did not mention about the change of preference made by him on 3.5.93. UPSC has pointed out that applicant is a successful candidate and actually allotment of service is done by the Departmental of Personnel & Training as per the preference given by the Applicant. Department of Personnel & Training, Respondent No.1, in their counter, have pointed out that no illegality has been committed by not allotting the applicant to Indian Railway Personnel Service and he has been rightly allotted to Indian Postal Service. In view of this Respondent No.1 has opposed the prayer of the applicant.

5. The applicant has filed a rejoinder to the counter filed by the Respondents 1 and 2 in which he has reiterated the submissions made in his Original Application. He has also stated that persons lower in rank than him has been allotted Indian ^{Railway} personnel Service and thereby it is proved that allocation of service, has not been given to him

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according to his choice. Learned Counsel for the applicant has also filed written note of submission, which has been taken into account.

6. We have heard Shri S.K. Gajendra, learned Counsel for the applicant and Shri S.C. Samantray, learned Additional Standing Counsel (Central) for the Respondents.

7. On perusal of the records and after hearing the learned Counsels for both sides, we note that the applicant's grievance is that, he should have been allotted to Indian Rly. Personnel Service Group 'A' but instead he has been allotted to Indian Postal Service Group 'A'. In the Original set of preferences given by him, in his application for the examination, Indian Railway Personnel Service Group 'A' was at Sl.No.5 in the order of preference, coming after; Indian Administrative Service, Indian Police Service; Indian Customs and Central Excise Service Group 'A' and Indian Revenue Service Group 'A'. But under Rule-2 of Civil Services Examination, 1992, he has submitted a revised set of preferences on 3.5.93 which was in time and in this preference, he has given Indian Postal Service Group 'A' as item No.7. The other six services from Item Nos.1 to 6 are Indian Administrative Service; Indian police Service; Indian Customs and Central Excise Service Group 'A'; Indian Revenue Service Group 'A'; Indian Foreign Service; Indian Railway Traffic Service, Group 'A' and Indian Postal Service, Group 'A' and so on. Thus, it is seen that in the

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preferences exercised by him on 3.5.93 and which has been accepted by the U.P.S.C., Indian Postal Service Group 'A' comes above the Indian Railway Personnel Service. Department of Personnel and Training, have, alongwith their counter, annexed a copy of this set of preferences and in this, we notice that Indian postal Service comes against Sl.No.7 and Indian Railway Personnel Service comes under Sl.No.11. From this, it is clear that in his set of preferences, given on 3.5.93, the applicant has given higher preference to Indian postal Service over Indian Railway Personnel Service. In view of this, he can have no complaint that he has been allotted Indian postal Service and not Indian Railway Personnel Service. His second set of revised preference which was received by the U.P.S.C. only on 7.6.93 beyond the last date and has not rightly been taken into consideration.

8. In course of argument, learned counsel for the Applicant, has based on his entire argument on the first part of the letter dated 13.6.1993 of the U.P.S.C. rejecting his second set of revised preference received by the UPSC on 7.6.93. In this letter, the UPSC has mentioned that preferences indicated by the applicant, in his application for Civil Services (Main) Examination, 1992 have been taken into consideration. This sentence is explained by the UPSC in the counter that after receipt of his first set of revised preference on 3.5.93, the same was incorporated in the main

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application form and accordingly, it has been written that preferences given in his application form will be taken into consideration. This in no way supports the plea of the applicant that he will now be allotted to Service in accordance with his original set of preferences given in his Original Application. In the Original Application, no doubt, the applicant has given Indian Railway Personnel Service, as Item No.5 and Indian Postal Service as Item No.13. But as he himself has changed the preference, in his letter received by the U.P.S.C. on 3.5.93, he can have no grievance on this account. Department of personnel & Training in their counter have submitted that allocation of Indian Postal Service has been made to the applicant strictly in accordance with the preference given by the applicant. Indian postal Service, has also been given higher preference by the applicant over Indian Railway Personnel Service in his first revised preference and therefore, the contention of the applicant that he should be allotted Indian Railway Personnel Service is without any merit.

9. The applicant has further stated that persons who have acquired position lower than him, in the final merit list, have been allotted Indian Railway Personnel Service. This does not in any way go to support his claim because, according to his revised preference, he himself, has given higher preference to the Indian Postal Service,

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over Indian Railway personnel Service, and accordingly, has got Indian postal Service. We, therefore, hold that the applicant has not been able to make out a case that he should be allotted to Indian Railway personnel Service. The application, is, therefore, held to be without any merit and hence rejected.

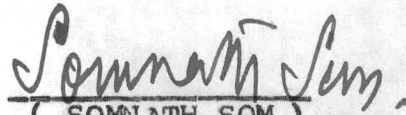
10. In this case, on the date of admission of the application, on 1.2.1994, the following interim order was passed:

" It is further directed that the offer given to the petitioner Shri Srikanta Prusty to join in the Indian postal Services, as found from Annexure-3, shall not be cancelled".

In view of the above interim order, the applicant can still join in the Indian Postal Service. In view of this, while rejecting the application for being without any merit, we direct the Respondents 1 to 3 to allow the applicant to join Indian Postal Service Group 'A' to which he has been allotted. He should also be allowed to undergo the next foundation course in LBSNAA, Mussoorie.

11. In the result, the application is rejected with the observations made in para-10 above. But in the circumstances, there shall be no order as to cost.


(S.K. AGARWAL)
MEMBER(JUDICIAL)


(SOMNATH SOM)
VICE-CHAIRMAN