

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Miscellaneous Application No. 372 of 2011 in
Original Application No. 471 of 2011
&
Original Application No. 471 of 2011

Monday, this the 13th day of May, 2013

CORAM:

Hon'ble Mr. Justice P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

Manjunath H., S/o. Hanumegowda, aged 27 years,
 Assistant Superintendent of Police (under training),
 Ernakulam Rural, District Police Office, Aluva,
 residing permanently at No. 309/3, 13th Ward, 3rd Cross,
 Subash Nagar, Nelamangala Town, Bangalore
 Rural District – 562 123.

..... **Applicant**

(By Advocate – Mr. M.R. Hariraj)

V e r s u s

1. Union of India, represented by the Secretary to Government of India, Ministry of Home Affairs, New Delhi – 110 001.
2. State of Kerala, represented by the Secretary to Government, Ministry of Home Affairs, Government Secretariat, Mumbai – 400 032.
3. State of Maharashtra, represented by the Secretary to Government, Ministry of Home Affairs, Government Secretariat, Mumbai-400 032.
4. N. Ambika, age and father's name unknown to the applicant, Assistant Superintendent of Police (Under Training), Ahmednagar, Maharashtra – 414 001. **Respondents**

**[By Advocates – Mr. Sunil Jacob Jose, SCGSC (R1),
 Mr. M. Rajeev, GP (R2) &
 M/s. Client & Lawyers (R4)]**

The Miscellaneous Application and Original Application having been heard on 11.04.2013, the Tribunal on 13/05/2013 delivered the

V

following:

ORDER

By Hon'ble Mr. K. George Joseph, Administrative Member-

The applicant appeared for the Civil Service Examination of 2008 and was ranked 192 in the merit list. He belongs to the OBC category. Based on his option and merit he was allotted to the Indian Police Service. Based on the revised policy for cadre allotment for All India Service vide memo dated 10.4.2008, allocation of cadre is to be made based on options subject to merit. There was no insider vacancy to accommodate him in his home state as two insider vacancies in Karnataka were given to general candidates who were higher in rank than him. The applicant could not be allocated to Andhra Pradesh which was his second option as per his merit. His 3rd option was Maharashtra where there were three vacancies of outsider/OBC which were filled up by candidates who ranked lower than the applicant. He was finally allotted to Kerala. Aggrieved, he has filed this Original Application for the following reliefs:-

- “i. To quash Annexure A1 and A3 to the extent it allots applicant to the Kerala cadre;
- ii. To declare that the applicant is entitled to be allotted to the Maharashtra cadre of the Indian Police Service under Annexure A2 and to direct the respondents to allot the applicant to Maharashtra cadre of the Indian Police Service;
- iii. grant such other reliefs as may be prayed for and the court may deem fit to grant, and
- iv. grant the costs of this Original Application.”

2. The applicant contended that it was because he was treated as a general candidate that he came to be allotted to Kerala which was his 12th option among the cadres while other OBC candidates who were much below in rank



were allotted to Maharashtra, the third option of the applicant. It is mandatory under paragraph 8(iii) of Annexure A2 dated 10.4.2008 that "remaining candidates will be listed under their respective category in the order of merit". Therefore, the applicant is entitled to be included in the list of OBC and should be allocated to a cadre on the basis of his preference and the outsider vacancy in his category. He is eligible to be treated as OBC candidate if vacancy is available in that category and based on his merit and preference he can be allocated to the said vacancy. The 4th respondent is allocated to Maharashtra which is her 5th option. Kerala was her 4th option. If the applicant is allocated to Maharashtra and 4th respondent to Kerala, the mistake of wrongly allocating the applicant to Kerala will stand rectified. The applicant relied on the decision of the Apex Court in the case of Union of India & Anr. Vs. Satya Prakash & Ors. - 2006 (4) SCC 550.

3. The respondent No. 1 in his reply statement submitted that there is no provision for allocation of the candidate of reserved category qualified to be treated as a general candidate on the basis of his merit as reserved category candidate in the outsider reserved vacancy. Though the respondent No. 4 is below him in merit she has qualified as a OBC candidate and therefore, she was allocated to the IPS cadre of Maharashtra against the outsider OBC vacancy whereas the applicant was allocated to the IPS cadre of Kerala against the unreserved vacancy. The claim of the applicant that he should be allotted the cadre of higher preference as OBC candidate against OBC outsider vacancy, is not permissible under the policy guidelines dated 10.4.2008, then in force.

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4. The respondent No. 4 in her counter affidavit submitted that by virtue of merit only the applicant has been considered as general candidate in which category there was no vacancy in Maharashtra. As there was no vacancy for OBC candidate in Kerala State which was her 4th option she was allocated to Maharashtra which was her next option. She has left Tamil Nadu for Maharashtra. Her two children are studying in Akola district, learning the new language and adjusting to the environment there. She has already undergone District Practical Training 1 and 2 learning the language, culture, working style and all aspect of policing pertaining to Maharashtra and now is serving as Assistant Superintendent of Police in Akola District.

5. We have heard the learned counsel for the parties and perused the records.

6. The delay of 37 days in filing the OA is condoned. Accordingly, the MA No. 372 of 2011 is allowed. It has been held in the case of Satya Prakash (supra) as under:-

“20. If a candidate of the Scheduled Caste, the Scheduled Tribe and Other Backward Class, who has been recommended by the Commission without resorting to the relaxed standard could not get his/her own preference in the merit list, he/she can opt a preference from the reserved category and in such process the choice of preference of the reserved category recommended by resorting to the relaxed standard will be pushed further down but shall be allotted to any of the remaining services/posts in which there are vacancies after allocation of all the candidates who can be allocated to a service/post in accordance with their preference.”

7. As per the above decision of the Hon'ble Supreme Court the higher merit of the applicant which placed him in the general category need not work out to his disadvantage in retaining the benefit available to him as an

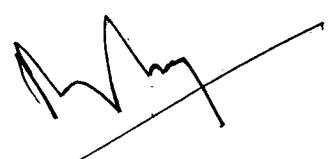


OBC candidate vis-a-vis other less meritorious OBC candidates in the matter of preference in cadre allotment. The cadre change between the 4th respondent and the applicant is not possible as the former is not willing in the first instance. Although the applicant is entitled to be allocated to Maharashtra state as per his choice as an OBC candidate, we are not inclined to grant the relief sought by him as granting it would trigger chain displacements of any number of officers who are settled in the allocated states over a period of years, which is not in public interest.

8. The Original Application is disposed of as above. However, it is made clear that this order will not stand in the way of cadre change of the applicant in case he seeks it and the Government finds it fit to grant it. No order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

“SA”