

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.76/2001

Tuesday this the 5th day of November, 2002.

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI T.N.T.NAYAR, ADMINISTRATIVE MEMBER

Jyothilal K.R.
S/o Ravindran.N,
District Collector, Kannur
Kerala, residing at Collector's Residence,
S.P.C.A. Road, Kannur. Applicant

(By Advocate Sri O .V.Radhakrishnan)

vs.

1. Union of India, represented by its Secretary
Ministry of Personnel, Public Grievances
and Pensions

2. Chief Secretary,
Government of Kerala, Kerala Secretariat,
Trivandrum.

3. Chief Secretary,
Government of Orissa, Secretariat,
at P.O.Bhubaneswar, Dist.Khurda.

.... Respondents

(By Advocate Sri Madanan Pillai (R1)

(By Advocate Mr.Renjit.A., Govt.Pleader (R2)

The Application having been heard on 24.9.2002, the
Tribunal on 5.11.2002 delivered the following:-

ORDER

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

This Original Application was initially filed before
the Cuttack Bench of the Central Administrative Tribunal as
O.A. 345 of 1996. It was then transferred to the Principal
Bench as O.A. 1254/98 and subsequently transferred to this
Bench. The applicant Sri Jyothilal has prayed that the
impugned order A1 dated 17.12.93 of the first respondent to
the extent of allocating him to the Orissa Cadre of the
Indian Administrative Service(IAS- for short) may be set

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aside and the respondents be directed to allocate the applicant to the Kerala cadre of the I.A.S. with consequential benefits.

2. The material allegations in the application are as follows. On his success at the Civil Service Examination of the year 1992, the applicant was placed at rank No.18 in the merit list for I.A.S. by A2 order dated 25.05.1995 and was allocated to I.A.S. w.e.f. 5.9.93. On successful completion of the probation he joined as Sub Collector at Bhawanipatna on 24.8.95. The applicant had while applying for appearing in the Civil Services Examination, 1992 declared his home State as Kerala and had also opted for being allocated to home State in case he is selected for appointment to the I.A.S. There were 4 vacancies for appointment to the Kerala cadre of the I.A.S. for the 1993 batch. Although there is a deficiency in the insider quota in the Kerala Cadre of the I.A.S. and also there were 4 vacancies, the respondents by the impugned order did not allocate the applicant to the Kerala Cadre, but allocated him to the Orissa Cadre. Only one probationer viz. Mrs. Usha Titus who was 9th in the list was allocated to Kerala as insider. The State of Kerala had requested the first respondent vide its letter dated 16.11.91 to allocate more insiders to the State of Kerala as there was already a deficiency of the insider quota. The request of the applicant for allocation to the Kerala Cadre was turned down by Annexure A4 order dated 5.5.95. The allocation of the applicant to Orissa Cadre was made without effective

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consultation with the State Governments as is required in terms of the mandatory provision of Rule 5(1) of the I.A.S.(Cadre)Rules, 1954. The applicant, has, therefore filed the application before the Cuttack Bench of the Central Administrative Tribunal seeking to set aside the allotment of the applicant to Orissa Cadre by Annexure A1 order and for directions to the respondents to allocate the applicant to the Kerala Cadre of the I.A.S. with consequential benefits. By interim order dated 9.8.96 the Cuttack Bench of the Central Administrative Tribunal directed the respondents to provisionally allow the applicant to join the IAS Cadre of Kerala treating him as provisionally allocated to the State Cadre till the disposal of the application. On the basis of the above interim order, the applicant joined the Kerala Cadre and continues so.

3. The first respondent in his reply statement contend that the allocation to State Cadre is made on the basis of 30 point roster of outsider insider outsider - outsider insider outsider, that as there were only 4 vacancies in the Kerala Cadre of the I.A.S. for the 1993 batch as per the roster which was operational only one vacancy was available for insider(reserved) which in the absence of a reserved candidate was filled by Smt.Usha Titus an insider general candidate who had secured 9th rank in the all India merit, that the applicant who had obtained only 18th rank could not be accommodated in his home Cadre for want of a slot of insider, that the principle of carry forward is not

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applicable in the case of cadre allocation as has been held by the Apex Court in Rajiv Yadav's case, (1994)6 SCC 38, and the allocation of the applicant to Orissa Cadre being strictly in accordance with the principle followed in Cadre allocation, the applicant is not entitled to the reliefs claimed.

4. The second respondent, the Chief Secretary, Govt. of Kerala has filed a reply statement in which it is indicated that there is a short fall of 4 insiders in the Kerala Cadre and that the second respondent has no objection in accepting the applicant to the State Cadre of the I.A.S.

5. The third respondent, the Chief Secretary, the State of Orissa, has not filed any reply statement.

6. We have gone through the pleadings and all the materials available on record and have heard Sri O.V.Radhakrishnan, the learned counsel of the applicant, Sri Madanan Pillai, ACGSC appearing for the first respondent and Sri Renjit, Govt. Pleader for the second respondent.

7. The learned counsel of the applicant argued that although the principle of carry forward of insider point in the 30 point roster in the absence of an insider in a particular year is not provided for in the matter of Cadre allocation, in terms of the instructions contained in the Government of India, Ministry of Personnel & Training letter dated 30th July, 1984(Annexure R-I) and the letter dated

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30/31st May, 1985 (Annexure R-II), it is necessary to maintain the ratio 2:1 in the case of outsider-insider in the State Cadre over a period of time and that as there is already a short fall of 4 insiders in the Kerala State Cadre as has been stated by the second respondent, the allocation of the applicant, a Keralite, and who had opted for allotment to home State to the Orissa Cadre was made ignoring the principles and without effective consultation with the concerned State Governments and that, therefore the allocation is liable to be cancelled. He further argued that it is evident from Annexure A7 letter from the Government of Orissa to Joint Secretary, Government of India, Department of Personnel and Training dated 12.5.95 that the State of Orissa had recommended the allocation of the applicant to the Kerala Cadre of the I.A.S. In this case it is seen that the allocation of the applicant to the Orissa Cadre was made irrespective of the fact that there was a short fall of insider quota in the Kerala Cadre of the I.A.S., that the State of Kerala had requested for allotment of more insiders to the State and that the allocation was made without effective consultation with the concerned State Governments. The applicant had been allowed to join the Kerala Cadre in the year 1996 on the basis of an interim order of the Cuttack Bench of the Tribunal and is still continuing in the Kerala Cadre. As there is a short fall in the insider quota of Kerala Cadre of the I.A.S. and the allotment was made without taking into account that fact into consideration and without consultation with the

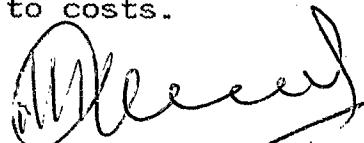
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concerned State Governments, we are of the considered view that the impugned order to the extent it allocates the applicant to the Orissa Cadre is liable to be set aside.

8. In the result, the application is allowed. The impugned order to the extent it allocates the applicant to the Orissa Cadre is set aside and the first respondent is directed to issue order allocating the applicant to the Kerala Cadre of the I.A.S. as an insider of the 1993 batch within a period of two months from the date of receipt of a copy of this order. There is no order as to costs.



(T.N.T.NAYAR)
ADMINISTRATIVE MEMBER



(A.V.HARIDASAN)
VICE CHAIRMAN

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APPENDIX

Applicant's Annexures:

1. A-1: True copy of the allotment Notification No.3/8/REP/93 dated 17.12.1993 of the Administrative Officer, Lal Bahadur Shastri National Academy of Administration, Mussoorie.
2. A-2: True copy of the Notification No.13012/5/93-AIS(I) dated 25.5.1995 of the Under Secretary, Government of India.
3. A-3: True copy of the cadre allotment letter dated 4.9.91.
4. A-4: True copy of the rejection letter No.12/36 A&P/93 dated 5.5.95 of the Administrative Officer, Lal Bahadur Shastri National Academy of Administration, Mussoorie.
5. A-5: True copy of a table of IAS Officers allotted to Kerala Circle during the operation of the 30 point roster started from S.G.K.Kishore.
6. A-6: True copy of letter No.13013/5/84-AIS(I) dated 30/31 May, 1985 Secretary, Govt. of India, Ministry of Personnel & Training, Administrative Reforms and Public Grievances and Pensions..
7. A-7: True copy of the letter No.AIS/1-32/95/Gen., Bhubaneswar, St.Government of Orissa, General Administration Department dated 12.5.1995.
8. A-8: True copy of the order in OA No.308/2000 dated 17.8.2001 of the Hon'ble Central Administrative Tribunal, Ernakulam Bench.
