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IN THE CENTRAL ADMINISTRATIVAE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. No. 393/97.

Dt. of Decision: -----

Koppolu Vidya Sagar

.. Applicant.

Vs ..

1. The Govt. of India, Rep. by its Secretary, Dept. of Personnel, Training, Min. of Personnel, Public Gievances and Pensions, North Block, New Delhi-110 001.
2. The Govt. of India, Min. of Environment and Forest Dept. rep. by its Secretary, Paryavaran Bhavan, C.G.O.Complex, Lodi Road, New Delhi-110 003.
3. The Director, Indira Gandhi National Forest Academy, P.O.New Forest, Dehradun, Uttar Pradesh.
4. The Union Public Service Commission Rep. by its Secretary, Dholpur House, Shajhan Road, New Delhi-11. .. Respondents.

Counsel for the applicant : Mr.S.Satyam Reddy,

Counsel for the respondents : Mr.N.R.Devaraj, Sr.CGSC.

CORAM:-

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.)

ORDER

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

Heard Shri S.Satyam Reddy, learned counsel for the applicant and Mr.N.R.Devaraj, learned counsel for the respondents.

2. The applicant while working as Assistant Conservator of Forests in the A.P.State, appeared for the competitive exam for recruitment to Indian Forest Service in 1995. He was selected and joined the training under R-3 on 1-6-96 as per the stipulation in the offer of appointment. On his joining the

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service, he is governed by the IFS (Probation) Rules, 1968. The applicant submitted an application for appearing in the Civil Service Exam, 1997 through proper channel. The preliminary exam for Civil Service examination 1997 was to be held in the month of June 1997. R-4 issued notification for preliminary examination in the last week of December 1996 in the Employment News and other Newspapers. R-1 refused to grant permission for appearing for Civil Service Preliminary Exam to the applicant herein who was undergoing training in Dehradun under R-3 after joining IFS Service by proceedings No.17022/03/94-IFS-II dated 5-11-96, quoting the amended IFS (Probationary Rules, 1968) amended on 25-6-94. The rule was amended adding a proviso to Sub-Rule (1) of Rule 8 of the said rules. ^{The proviso to} Sub-Rule (1) of Rule 8 reads as below:-

"Provided that no probationer in the Service shall during the period when he is under training at the Indira Gandhi National Forest Academy, Dehra Dun appear in either the Civil Services Examination or any other Examination for appointment to a Central or State Service by Open Competitive Examination."

Since the IFS Probationer undergoing training under R-3 is prohibited from appearing in either the Civil Service Examination or any other examination for appointment to a Central or State Service by open competitive examination, the request of the applicant for appearing for the preliminary examination of Civil Services examination, 1997 was refused.

3. This OA is filed praying for a declaration that Rule 8 (1) of IFS (Probation) Rules, 1968 is arbitrary and illegal and discriminatory and for a consequential direction to the respondents to permit the applicant to appear for the Civil Services Examination, 1997.

4. The applicant contends that the probationers undergoing training in the Indian Police Service and other allied services selected earlier on the basis of the Civil Services Examination

can sit for the subsequent Civil Service Examination for appointment in IAS/IFS. Rule 4(v)(b) of examination notification permits for the above relaxation. This rule reads as follows:-

"A candidate who has accepted the allocation to a service on the basis of an earlier examination shall be eligible on the basis of this examination to be allocated only to those service(s)/post(s) which were higher in the order of preference in his/her application from for the examination on the basis of which he/she has been last allocated to a service."

5. If such a relaxation can be given there is no reason to prohibit Indian Forest Service Probationers from appearing for Civil Services Examination to improve their career prospects. Such a prohibition is to be held as a discrimination against the Indian Forest Service probationers thereby violative of Article 21 of the Constitution which guarantees the Fundamental Right to life and liberty.

6. In the additional grounds urged by the applicant, the applicant submits that the Indian Forest Service is an inferior service and far less lucrative than IAS and IPS as also other Class-I Central Services. He further adds that the number of higher posts in Indian Forest Service in the rank of Secretaries, Addl. Secretaries, Joint Secretaries, Directors and Dy. Secretaries are very few compared to those positions in IAS/IPS and other allied services. Hence the refusal of R-1 to permit the applicant to appear for the Civil Services examination is detrimental to the career prospects of the applicant. It is not only discriminatory but also violative of the Fundamental Rights.

7. Even the automatic promotion available in the IAS/IPS is not available to the Indian Forest Service Officers. They are promoted even to the scale of Rs.4500-5700/- only after 25 years of services whereas the IAS/IPS Officers get that scale in 14 years of service. Thus the Rule 8(1) has been introduced without any application of mind. If the probationers of the Indian Forest Service are not permitted to appear for the Civil Services

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Examination when they are undergoing training, they will not be able to take the Civil Service Examination after they complete their training as by then they will be over aged since the training period for Indian Forest Service Probationers is 3 years.

8. Hence on the above grounds the applicant challenges the proviso to Rule 8(1) of the IFS (Probation) Rules, 1968.

9. In the reply, the respondents submit that the probationers of the Indian Forest Service is prevented from appearing for the Civil Service Examination while undergoing training to ensure that the trainee probationers concentrate on their probationary training which is very vital for their future career. The relevant portion of the reply in this connection is reproduced below:-

"It is submitted that restriction on appearing in the Civil Services Examination has been imposed by the Government of India with a view to ensuring that the probationers of the Indian Forest Service (IFS) concentrate on their probation training which is very vital for their future career. It has been the experience that the IFS probationers who undergo the training at the Indira Gandhi National Forest Academy, Dehra Dun, while preparing for the other Examinations can hardly devote any time to the training and other activities, such as Study Tours/Field Exercises required to be undertaken by an IFS probationer. This also causes serious distraction or disturbance to their training and such probationers have to repeat several Examinations/Study Tours conducted by the Academy at later stages which create considerable administrative problems. In order to overcome these difficulties and to maintain strict discipline in the Academy, it was decided to put a restriction on IFS Probationers undergoing training at the Academy on their appearing in the Civil Services Examination and other Examinations for Central and State Services during the course of their training."

10. The applicant submits that there is no prohibition for IPS and Allied Services trainee officers to appear for IAS/IFS as per the notification of the Civil Service Examination. But the Indian Forest Service Probationers are discriminated by the introduction of Rule 8(1) of IFS (Probation) Rules, 1968. Hence the proviso to Rule 8(1) is to be treated as arbitrary, ~~and~~unjustified and hence should be deleted from the Probation Rules.

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11. At the outset it has to be observed that each service has got its own peculiarities. No two services can be compared. There are certain restrictions for IAS/IFS Officers also to appear for subsequent Civil Services Examination (CSE) for interchange of their service or IAS officers to change their cadre from one State to another. Thus it cannot be said that the restriction is peculiar to only Indian Forest Service.

12. The respondents in their reply submit that to ensure proper training and to avoid causes of serious distraction or disturbance to their training the Rule 8(1) has been formulated. The respondents are of the opinion that allowing the trainee IFS Officers to appear for CSE will result in the hampering of the training schedule thereby causing undue disturbance in their training programme. The prohibition as per Rule 8(1) has been formulated after deep study of the training schedule. Hence the clause introduced is to be treated as a policy decision.

13. Court/Tribunal are not having the expertise to come to the conclusion that such a clause is arbitrary or unjustified. Only if it is proved that the introduction of Rule 8(1) is due to malafide intention then only the Tribunal can interfere with that provision. In the present case no such intention has been brought out. Just because such a clause is not existing in other organised services, it cannot be said to be unjustified. In that view we feel that the contention raised by the applicant as above has to be held as untenable. Further the applicant knews about the rule even prior to his joining the training course. If he was interested to appear for CSE, then he could have waited till he wrote the CSE and then joined the IFS training in the next course if rules permitted. He did not want to miss the opportunity of getting into IFS and hence he joined the IFS training course without foreseeing the implication. He is fully responsible for that assessment and consequential implication of such assessment.

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14. The applicant further submits that the / Rule 8(1) is detrimental to his career prospects and hence is violative of Article 21 of the Constitution. To substantiate the above, he submits that the number of high grade posts in IAS/IPS/Allied services are very much high compared to Indian Forest Service and preventing the applicant from appearing for the CSE will put him in a disadvantageous position as his promotional avenues in IFS is poor.

15. Before we analyse this contention, we ~~would~~ like to once again re-emphasise that no two services can be compared, either in regard to the promotional prospects or in any other sphere of activities. Each service has got its own positive and negative aspects. No doubt that IAS officers do have a better promotional prospects as well as other perquisites. But that has to be evaluated on the basis of their duties and responsibilities. Incidentally at this juncture, it is to be observed that the high promotional prospects and availability of perquisites to IAS officers needs review under the present circumstances. Promotional prospects is not a criterion to formulate rules. Promotion is an incidence of service. No employee has a right to promotion but has a right to be considered for promotion according to rules. (1996 (4) SLR (SC) 491 - Ramachandra Dayaram Gawande Vs. U.O.I.). Consideration for promotion arises only if promotional posts are available. No employee can ask the Government to create posts for promotion on par with some other cadre. Hence challenging the / Rule 8(1) on the basis of poor promotional prospects in the Indian Forest Service is not at all justifiable and tenable and on that basis the rule cannot be set aside.

16. If the applicant is aggrieved by the rule, then the only course left to him is to resign from that service and thereafter sit for the CSE. He cannot have the cake and eat it too.

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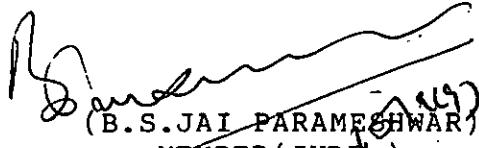
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17. From the above analysis, it transpires that the applicant has not made out a case to quash the ~~proviso~~ ^{to} Rule 8(1) of IFS (Probation) Rules, 1968. Hence the challenge to the Rule has to be dismissed.

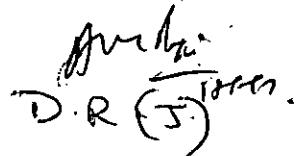
18. In the result, the OA is dismissed. No costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 15th Sept. 1997.

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D.R. (J)

OA.393/97

1. The Secretary, Dept. of Personnel, & Training, Min. of Personnel, Public Grievances and Pensions, North Block, New Delhi.
2. The Secretary, Min. of Environment and Forest Dept. , C.G.O.Complex, Lodi Road, New Delhi.
3. The Director, Indira Gandhi Nation Forest Academy, P.O.New Forest, Dehradun, Uttar Pradesh.
4. The Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi.
5. One copy to Mr. S.Satyam Reddy, Advocate, CAT., Hyd.
6. One copy to Mr. N.R.Devaraj, Sr.CGSC., CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One Spare.
9. All the Reporters.

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TYPED BY
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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R.RANGARAJAN: M(A)

AND

THE HON'BLE SHRI B.S.JAI PARAMESHWAR:M
(J)

DATED

15/9/87

ORDER/JUDGEMENT

M.A./R.A/C.A.NO.

in

O.A.NO. 393/87

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

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II Court.

