

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT CAMP AT BILASPUR

Original Application No. 60 of 2002

Jabalpur, this the 30th day of July, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

1. A.K. Shrivastava, IPS, S/o Shri B.L. Shrivastava, aged about 53 years, Inspector General of Police (Intelligence), Chhattisgarh Police Head Quarters, Raipur (Chhattisgarh).
2. S.C. Atre, IPS S/o late Shri G.S. Atre, aged about 53 years, Inspector General of Police, State Bureau of Investigation (Economic Offences Wing), Raipur (Chhattisgarh).
3. R.C. Sharma, IPS, S/o Shri B.R. Sharma, aged about 50 years Superintendent of Police, Durg (Chhattisgarh).

APPLICANTS

(By Advocate - Shri Mainendra Shrivastava with Shri Manoj Sharma)

VERSUS

1. Union of India,
Through : Secretary, Ministry of Home Affairs, New Delhi.
2. Ministry of Personnel, Public Grievances and Pension, Department of Personnel & Training, Through: Secretary, New Delhi.
3. State of Madhya Pradesh
Through: Principal Secretary, Home Department, Mantralaya, Vallabh Bhavan, and Bhopal.

RESPONDENTS

(By Advocate - Shri S.P. Singh for respondents Nos 1 & 2
None for respondent No.3)

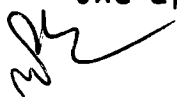
O R D E R

By M.P. Singh, Vice Chairman -

By filing this DA, the applicants have sought the following main reliefs :-

"(ii) to set aside/quash the impugned order of allocation so far as it relates to the applicants.

(iii) to direct the respondents to allocate and keep the applicants in the M.P. cadre of IPS".



as stated by the applicants &

2. The brief facts of the case are that the applicants are State Police Service Officers and have been allocated to the State of Chhattisgarh. Consequent to bifurcation of the State of Madhya Pradesh w.e.f. 1.11.2000, a notification was issued on 21.10.2000 by the respondent no.2 i.e. the Department of Personnel & Training, notifying Indian Police Service (for short 'IPS') (Fixation of cadre strength) Fifth Amendment Regulations, 2000. The said regulations came into effect w.e.f. 1.11.2000. According to which the cadre strength of IPS was notified as 59(41 direct recruit & 18 promotion) posts ⁱⁿ State of Chhattisgarh, and 219 posts were allocated to the State of Madhya Pradesh, out of which 153 were for direct recruitment and 66 for promotion quota.


2.1 A committee headed by Shri U.C. Agrawal was constituted by the Central Government to formulate the norms/guidelines for the purpose of allocation of posts and personnel of All India Service as a result of bifurcation of the erstwhile State of M.P. O.A.No.943/2000 was filed by the All India Services officers association before the Tribunal. It was inter alia pleaded therein that no transparency whatsoever has been kept in the entire process and the so called allocation of IPS officers between the two States of Madhya Pradesh and Chhattisgarh suffered from arbitrariness, high handedness, malafides and vice of pick and choose. No grievance redressal mechanism was provided. So also the entire process has been grossly in contravention of the provisions contained in Sections 67 and 71 of the State of Reorganisation Act, 2000. The Tribunal vide order dated 2.11.2000 directed the State Govt. to supply a copy of the norms/guidelines. It was further directed by the Tribunal that upon receipt of the copy of the norms/guidelines as followed, if aggrieved, the members of Association may represent before the appropriate authority with a further liberty to agitate their grievances before the Tribunal if the same remains unremedied. A copy

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of the guidelines as enunciated and submitted by Mr.U.C.Agrawal Committee has been filed as Annexure-A-8. This was later modified to favour a privileged and influential few to the detriment of the applicants. Based on the material that the fixation of cadre strength, initial list as published, the impugned notification, and the norms/guidelines as enunciated by Mr.U.C.Agrawal's committee, the applicants submitted their representations, as there were various short-comings in the impugned order and it was not faithful to guidelines as initially enunciated by Mr.U.C.Agrawal Committee. The applicants submitted their representations and reminders thereto on 10.11.2000, 12.11.2000, 15.11.2000, 24.12.2000, 5.5.01, and 5.11.2001. These ~~the~~ representations of the applicants were not decided. In fact, the order dated 1.11.2000 itself envisaged that the advisory committee will finalise the cases of genuine hardships and other related matters within a period of six months.

2.2 According to the applicants, in all there were 278 (194 + 84) posts in the IPS cadre for the erstwhile State of Madhya Pradesh. Out of which 84 posts were ~~made~~ ^{given} for State Police Service Officers whereas 194 posts for direct recruits. At the time of bifurcation of the State of Madhya Pradesh, out of 84 posts earmarked for State Police Service Officers, only 75 posts were filled up and there were 9 vacancies. As regards 194 posts meant for direct recruitment, there were 203 IPS officers against the direct recruitment. In other words, there were 9 officers in excess of their quota earmarked for direct recruit IPS officers. It is clear that all the posts for IPS officers were filled up in the erstwhile State of Madhya Pradesh. However, there were 9 vacancies in the promotion quota whereas there were 9 officers in excess of direct recruit quota.

2.3 The learned counsel for the applicant has drawn our attention to Annexure-A-8 regarding the principles to be followed for allocation of IPS officers between the two States.



Para 5 of the said Annexure states that "the admissible 'insider' quota among the direct recruits for the newly formed State be filled up by such officers of the parent cadre who have given as their domicile the districts of the newly formed State at the time of their initial appointment. Similarly, such promotee officers who belong to the districts of the newly formed State, too, be allowed to that cadre subject to the over-all limit of promotee quota". Sub para (e) of Para II of the said Annexure-A-8 provides as follows-

"Similarly, for promotees, a separate list will be prepared and procedure to be followed will be as above, i.e. the promotees who had domicile as per their dossiers in the new state will automatically stand allocated to the new state"

Sub-para (3) of Para-I also provides that "the future prospects of promotion/cadre management in both cadres arising out of the existing cadres should, by and large, be similar. There should not be scope for accelerated promotion in one cadre at the cost of congestion in the other. Any deficits/surplus in the actual availability of personnel should be proportionately distributed".


2.4 The contention of the learned counsel for the applicants is that if there was a deficiency in the promotion quota of 9 officers, that deficiency should be proportionately distributed between both the States of Madhya Pradesh and Chhattisgarh. According to him there was shortfall of 9 posts under promotion quota in IPS cadre in the erstwhile State of Madhya Pradesh. Therefore, as per the norms formulated by Shri U.C. Agrawal Committee, out of 18 posts earmarked for promotee officers for the State of Chhattisgarh, only 16 officers should have been allocated to the State of Chhattisgarh. As regards 9 IPS officers' excess ⁱⁿ of the direct recruit quota, 2 officers of direct recruitment quota in excess of their quota should have been allocated to the State of Chhattisgarh. However, the respondents have allocated 20 IPS officers belonging to State Police Service instead of 18 and only 39 officers against the 41 posts of direct

recruitment quota have been allocated to the State of Chhattisgarh. This jeopardise the interest of the applicants as the applicants belong to promotee quota and their further promotion avenues have been adversely affected.

2.5 The learned counsel for the applicant has also stated that the respondents have not followed strictly the norms prescribed by Shri U.C. Agrawal Committee and in order to overcome violation of the norms/guidelines, they have further amended these guidelines by including a provision of willingness. In order to support their claim, the applicants have relied upon the letter written by the Director General of Police, Chhattisgarh to the Chief Secretary, Govt. of Chhattisgarh, Raipur, and also to the letter of Principal Secretary, Govt. of Chhattisgarh, Raipur written to the Joint Secretary, Govt. of India, Ministry of Home Affairs, New Delhi, bringing out these anomalies to their notice.


2.6 The learned counsel for the applicant has also relied upon the norms mentioned at pages 122 & 123 of the OA.

3. On the other hand, the learned counsel for the respondents has submitted that only 16 IPS officers belonging to the promotee quota have been allocated to State of Chhattisgarh. He has submitted a list of officers giving complete details of the officers who have been allocated to the State of Chhattisgarh. The learned counsel for the respondents has also stated that as far as cadre allocation is concerned, it comes within the domain of the Government and the Tribunal cannot interfere in such cases. He has relied upon the decision of the Hon'ble Supreme Court in the case of Rajiv Yadav and others (1994) 6 SCC 38. The learned counsel for the respondents also stated that if the applicants have any grievance, the same will be considered by the State Government. In this context, he has relied upon the decision of Hon'ble High Court of Madhya Pradesh wherein it has been directed to approach the State Level Committee.



4. We have given careful consideration to the contentions of the learned counsel for the parties.

5. It is an admitted fact that 59 IPS officers, including the applicants, have been allocated to State of Chhattisgarh, out of which 39 officers are promotee officers and 20 are direct recruits. It is also not in dispute that the total strength of IPS officers of erstwhile State of Madhya Pradesh was 278. This authorised strength of the erstwhile State of Madhya Pradesh was bifurcated vide notification dated 31.10.2000 allocating 219 officers to the State of Madhya Pradesh and 59 officers to the State of Chhattisgarh. The authorised promotion quota of erstwhile State of Madhya Pradesh was 84. Against the authorised strength of 84, only 75 promotee IPS officers were available for consideration for allocation between the reorganised IPS cadre of Madhya Pradesh and newly created IPS cadre of Chhattisgarh on 31.10.2000. In the case of direct recruitment, there were surplus of 9 whereas in the case of promotees, there was deficit of 9. The total cadre strength of State of Chhattisgarh was notified as 59 IPS officers which comprise of 41 direct recruits and 18 promotee officers. As per the final report of the Advisory Committee any surpluses or deficits in the existing cadre are to be proportionately distributed between the two States arising out of it (chapter VI para 17(a) of the final report). Thus, only 16 promotee IPS officers could have been allocated to the State of Chhattisgarh and 43 direct recruit IPS officers ought to have been allocated. But, in fact 20 IPS promotee officers and only 39 direct recruit IPS officers were allocated, as mentioned by the applicant in para 4.23 of the OA. This fact has not been denied by the respondents in their reply.



6. We find some substance in the contention of the learned counsel for the applicants that as per the final report of the Advisory Committee constituted under the Madhya Pradesh Reorganisation Act, 2000 under the Chairmanship of Shri U.C. Agarwal, there has been inequitable distribution of the promotee IPS officers to the State of Chhattisgarh inasmuch as instead of 16 promotee IPS officers, four excess have been posted to the State of Chhattisgarh thereby adversely affecting the career of a number of State Police Service officers in Chhattisgarh in the matter of their promotional prospects vis-a-vis their counter parts in the State of M.P. This excess allocation which delays the prospects of future inductees into IPS through promotion, is one of the causes of grievance in the instant application, inasmuch as if all the willing officers were accommodated, there would have been no encroachment on promotion prospects of IPS officers and 2/4 vacancies would have remained available for future inductees as initially thought of and decided.

7. In view of the facts stated above, the respondents are directed to examine this issue and consider the same in terms of the observations contained in para 17(a) of Chapter-VI of the Final report of the Advisory Committee constituted under the Chairmanship of Shri U.C. Agarwal, within a period of three months from the date of communication of this order and if the applicants are found to be eligible for allocation ^{to} the State of Madhya Pradesh, their cases may be considered accordingly.

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8. The applicants have also submitted that they are facing lot of hardship by allocation to State of Chhattisgarh as all of them belong to State of Madhya Pradesh. They have also stated that equal number of IPS officers serving in Madhya Pradesh are willing for allocation to State of Chhattisgarh, but their requests have not been accepted by the respondents. According to the learned counsel for the respondents, the allocation of promotees IPS officers of erstwhile State of Madhya Pradesh to the newly created States of Madhya Pradesh and Chhattisgarh has been done strictly in accordance with the approved policy of the Central Government and no individual officer has locus standi to challenge the same. The learned counsel for the respondents has also submitted that the representations submitted by the applicants were duly considered by the Committee constituted by the Government of India to examine the cases of genuine hardship of the individual officers and other related issues arising out of allocation of all India Service officers to the bifurcated cadres of Chhattisgarh and Madhya Pradesh. The said committee has rejected the representations of the applicants, as is evident from the Minutes of the said Committee dated 18.5.2001. We may reproduce the minutes of the said Committee relating to the applicants as under-

"Shri A.K.Srivastava

The committee noted that Shri A.K.Srivastava, in his representation has stated that, his 88 years old father and 84 years old mother suffering from heart problem are living with him at Bhopal; Son is studying in Engineering College, Bhopal, wife is not well and house at Bhopal.

The Committee was of the opinion that old age problems of parents of AIS officers are quite natural but they have to bear with them. As a member of erstwhile IPS cadre of MP, he was also liable to be transferred to any part of the State including the one now under Chhattisgarh.

The committee, therefore, recommended rejection of his representation.

Shri S.C.Atre, IPS

The committee noted that Shri S.C.Atre, in his representation has stated that his 86 yrs. old ailing mother is Diabetic and suffers from Cardiac Disease. She is also chronic patient of Bronchitis. His unmarried elder sister aged 62 years is polio affected and handicapped. Both these family members are

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dependent on him. His twin daughters are studying for Engg. PG Degree at MACT Bhopal and they cannot be transferred to Chattisgarh. He has also stated that against the allocation of 16 promotee IPS officers to IPS cadre of Chattisgarh, 20 promotee IPS officers have been allocated. At best, Govt. of India could have allocated 18 promotee IPS Officers.

The committee was of the opinion, that old age problems of parents/ family members of the members of the All India Services are quite natural and they have to bear with them. As a member of the erstwhile IPS cadre of Madhya Pradesh, Shri S.C. Atre, was also liable to serve in any part of the State including the part which is now the part of newly created Chattisgarh State. As regards the policy of bifurcation of the IPS Cadres, the Committee was firmly of the opinion policy formation is the sole prerogative of the Central Government and no individual officers has no locus standi to challenge the same.

The committee, therefore, recommended rejection of his representation.

Shri R.C.Sharma, IPS

The committee noted that Shri R.C.Sharma, in his representation has challenged the principles of cadre allocation.

The committee examined the matter and satisfied itself that, Shri Sharma has not indicated any genuine hardship caused to him due to his allocation to IPS cadre of Chhattisgarh. The Committee was also firmly of the opinion, that the policy formulation is the sole prerogative of the Central Government and no individual officer has any locus standi to challenge the same.


The committee, therefore, recommended rejection of his representation".

We have found that there were 38 representations of IPS officers, out of which 36 were rejected; consideration of one was deferred; and only the representation of one IPS officer Shri D.S.Sengar was allowed for change of cadre from Chattisgarh to Madhya Pradesh.

8.1 We have also gone through the Final Report of the Advisory Committee constituted under the MP Reorganisation Act, 2000 under the chairmanship of Shri U.S. Agarwal, very carefully and found that in para 7 of Chapter-I the committee has observed as under-

"7.....If after all this there are other cases of "hardships" or cases that do need compassionate treatment Government has the normal powers under the AIS Cadre Rules to allow short terms inter-State deputations or even long term inter-cadre transfers. These powers could be exercised on individual merits if any representations are received from any aggrieved officer later.

We find that the committee constituted by the Govt. of India to examine the cases of genuine hardship of the individual



officers in its minutes dated 18.5.2001 has not considered the cases of the applicants in terms of the observations of the Advisory Committee in para 7 of Chapter-I, as quoted above. We also find that there appears to be genuine problems of the applicants. In this view of the matter, if the request of any of the applicants cannot be acceded to as per the directions given in para 7 of this order, they may submit their representations for short-terms inter-state deputations or even long term inter-cadre transfers. If such representations are submitted by the applicants, the respondents are directed to consider their case on humanatarian grounds and decide the same within a period of three months of the receipt of their representations.

9. In the result, the OA is partly allowed with the directions contained in para 7 and 8.1 above. In the facts and circumstances of the case, the parties are directed to bear their own costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

rkv.

Issued
on 02-8-04
BS

पृष्ठांकन सं ओ/न्या.....जयलपुर, दि.....

प्रतिलिपि अर्जित:-

- (1) सचिव, उच्च न्यायालय वार एसेसिएशन, जयलपुर
- (2) आवेदक श्री/श्रीमती/शु.....के जजमेंटल
- (3) प्रत्यक्ष श्री/श्रीमती/शु.....को जजमेंटल
- (4) कृपया, कृपया, जयलपुर व पत्रिका सूचना एवं आवश्यक कार्रवाई हेतु

Manoj Sharma, Adv
Maitendra Sharma, Adv
Advocate, Bk

SP Singh

उप सचिव 30.7.04