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CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

**ORDERS OF THE BENCH**

**Date of Order: 03.02.2012**

OA No. 567/2009

Mr. C.B. Sharma, counsel for applicant.

Mr. Mukesh Agarwal, counsel for respondent no. 1.

None present for respondent no. 2.

After arguing the case at length and exchanging the judgments relied upon by the respective parties, both the learned counsels appearing for the parties seek time to study the same. Time as prayed for is granted. Put up the matter on 08.02.2012 for further hearing.

*Anil Kumar*  
(ANIL KUMAR)

MEMBER (A)

*K. S. Rathore*  
(JUSTICE K.S. RATHORE)  
MEMBER (J)

Kumawat

08-02-2012

OA No. 567/2009

Mr. C.B. Sharma, counsel for applicant.  
Mr. Mukesh Agarwal, counsel for respondent no. 1  
Mr. V.D. Sharma, counsel for respondent No. 2  
None present for respondent No. 3.

Heard.  
O.A. is disposed of by a separate  
order on the separate-sheets for the  
reasons recorded therein.

*Anil Kumar*  
[Anil Kumar]  
Member (A)

*K. S. Rathore*  
(Justice K.S. Rathore)  
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH, JAIPUR.

*Jaipur, the 08<sup>th</sup> day of February, 2012*

**ORIGINAL APPLICATION No. 567/2009**

CORAM :

HON'BLE MR.JUSTICE K.S.RATHORE, JUDICIAL MEMBER  
HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER

Shri H.G. Raghavendra Suhasaa son of Shri H.T. Govinda Gowda, resident of 250, 3 Main, 1 Cross, BHCS layout, Bangalore, 560 0651 and at present working as Superintendent of Police, Bikaner, Rajasthan.

... Applicant  
(By Advocate : Mr. C.B. Sharma)

Versus

1. Union of India through its Secretary to the Government of India, Ministry of Home Affairs, North Block, Central Secretariat, New Delhi 110 001 .
2. State of Rajasthan through its Chief Secretary to Government of Rajasthan, Secretariat, Bhagwan Das Road, Jaipur – 302 005.
3. State of Karnataka through its Chief Secretary to Government of Karnataka, Secretariat, Vidhana Soudha, Bangalore – 560 001.

... Respondents  
(By Advocates : Mr. Mukesh Agarwal – Respondent no. 1.  
Mr. V.D. Sharma – Respondent no. 2.  
None for respondent no. 3.

**ORDER (ORAL)**

The applicant has filed this OA praying for the following reliefs:-

"In view of the foregoing factual submissions and grounds urged in that behalf, it is respectfully prayed that this Hon'ble Tribunal may be pleased:-

- a) to quash and set aside the impugned orders (Annexure A-1) as passed by the Respondents as totally arbitrary, illegal and malafide and void;
- b) to direct the respondents to consider allocating the applicant to his home State Karnataka as per his option exercised by conducting proper

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cadre allocation since the year 1985 by taking into account only those officers who are cadre officers in terms of the cadre rules and grant to the applicant all consequential benefits on his being allocated to Karnataka cadre;

c) Or in the alternative the respondents may be directed to allocate to the applicant the State Cadre as per his entitlement by taking into consideration the decision of the learned Tribunal in OA No. 706 of 2002 in the case of Praveen Kumar vs. UOI with all consequential benefits.

d) to direct the respondents to pay heavy cost to the applicant for the humiliation, harassment and mental agony caused to him for no fault of his;

e) to grant any other relief or reliefs as may be deemed fit and proper, under the circumstances of the case.

2. Brief facts of the case, as stated by the applicant, are that the applicant who has been selected to Indian Police Service on the basis of the Civil Services Examination 2000 is aggrieved of the notification dated 24.09.2001 (Annexure A/1), issued by the Respondent no. 1, illegally allocating to the applicant the State cadre of Rajasthan dehors the Indian Police Service (Cadre) Rules and the guidelines issued on the subject of allocation of state cadres. It is submitted that the issue is no more res integra since the Hon'ble learned Tribunal Allahabad in OA No. 706 of 2002 in the case of **Praveen Kumar vs. Union of India** has found fault with the allocation of State Cadres to the Officer of IPS of 2000 examination. It is submitted that in terms of principles of cadre allocation issued by Ministry of Personnel and Training vide letter dated 30/31.05.1985, any change in allocation of cadre to any IPS officer of 2000 examination would directly effect

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the state cadre allocation of all the officers of the 2000 examination and hence the allocation of the State of Rajasthan to the applicant is also per se illegal and bad in law. It is the applicant's case that had the respondents allocated cadre strictly in terms of the rules and guidelines on the subject then in that event he would have been allocated to his home State of Karnataka and not to the State of Rajasthan. Through this application, the applicant prays that his case for cadre allocation may also be considered in terms of the orders passed in OA No. 706 of 2002 in the case of Praveen Kumar vs. Union of India and also by taking into consideration the vacancy position that existed in the State of Karnataka right from the beginning of the allocation of cadres i.e. from the year 1985 batch onwards.

3. The applicant further submits that in terms of the letter dated 15.09.2003 of the State Government of Karnataka taking a cue from the explanatory notes attached to the said letter the Government had stated that over a period of 7 years from the year 1996 onwards there is a deficiency of utilization of one post under the 'insider quota' and that the person allocated to the Karnataka cadre during 2001 was an outsider and did not join at all and hence the said vacancy remains unutilized and the said Government, therefore, recommended that the applicant be allocated to the State of Karnataka in administrative interest. A perusal of the explanatory note

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to the said letter would show that there is acute deficiency in the allocation of insider candidates to the Karnataka State due to the arbitrary allocation of officers by the respondent No. 1 by not following strictly the rules and guidelines of cadre allocation and finding ways and means to allocate their favoured officers to State cadre of their choice. It is submitted that had the respondent No.1 strictly adhered to the principles of cadre allocation right from the year 1985 the applicant bonafidely believes that in the year 2001 the vacancy in the State would have been a 'insider vacancy' and he being the only candidate should have in the normal course itself would have been allocated to his home state or at least to a State which is near his home state and would have been able to look after his ailing parent.

4. The respondents have filed their reply. In their reply, they have stated that the Indian Police Service is an All India Service. The concept of All India Services finds place in the Constitution of India under Article 312, which is reproduced as under:-

"312. All India Services" :- Not with standing anything in chapter VI of part VI or part XI, if the Council of State has declared by not less than two-third of the members present and voting that it is necessary or expedient in the national interest so to do so. Parliament may by law provide for the creation of one or more All India Services (including an All India Judicial Service) common to the Union and the States and Subject to the other provisions of this chapter, regulate the recruitment and the condition of service of persons appointed, to any such Service."

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From the above it would be seen that an All India Services is created in the national interest and it is common to both the Union and the States. A member of an All India Service, therefore, bears liability to serve either the union or the State to which he is allocated. So long a member of the service is allocated to a State in accordance with the principles of cadre allocation, which have been framed by the Respondents in larger public interest and upheld by the Hon'ble Supreme Court, the applicant can have no grievance merely because the cadre to which he is allocated does not suit him or that the applicant wants to be allocated to his home State.

5. The respondents have further stated in their reply that the allocation of cadre to the candidates selected for appointment to Indian Police Service is done under Rule 5(1) of the Indian Police Service (Cadre) Rules 1954 (Annexure R/1) and as per the policy framed there under, vide D.O. letter No. 13013/5/84-AIS (1) dated 30.05.1985 (Annexure R/2). That the Rule 5 of AIS (Cadre) Rules, 1954 relating to allocation of cadres to All India Service Officers and the policy guidelines contained in D.O. letter No. 13013/5/84-AIS (1) dated 30.05.1985 have already stood the test of legal scrutiny by the Hon'ble Supreme Court of India in the case of **Union of India vs. Rajiv Yadav**, 1994 (6) SCC 38. The Hon'ble Supreme Court has held as under:-

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"When a person is appointed to an All India Service, having various State Cadres, he has no right to claim allocation to a State of his choice or to his home State. The Central Government is under no legal obligation to have options or even preferences from the officer concerned. Rule 5 of the Cadre Rules makes the Central Government the sole authority to allocate the members of the Services to various cadres. It is not obligatory for the Central Government to frame rules/regulations or otherwise notify the principles of cadre allocation."

6. The respondents have further stated that as a matter of policy, contained in letter NO. 13011/21/84-AIS dated 30.07.1984 (Annexure R/3) at least 66-2/3 of direct recruits in a State cadre in All India Services be from outsider the State cadre. The circular provides that while allocating direct recruits to the IAS and IPS, it would be ensured that at least 66-2/3% of officers are from the outside the State concerned. The respondents have also stated that to avoid problems relating to fractions and to ensure that this ratio is maintained over a period of time, the break up of vacancies in a cadre between outsider and insider is calculated in following the cycle of "outsider-insider-outsider". Thus, vacancies in every cadre in the ratio of 2:1 for outsider and insider for the purpose of allocation of cadres are determined by following a 30 point continuous vacancy roster. The respondents have given a detailed account of roster points consumed for filing up of vacancies of IPS cadre of Karnataka from various Civil Services Examinations. In their reply, they have stated that it is relevant to mention that for the purpose of determining the number of outsider/insider vacancies to fill

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up in a particular cadre from a particular Civil Services Examination, the 30 point roster starts from the roster point subsequent to the roster point, where roster had stopped at the time of filling up the vacancies in that cadre from the previous Civil Services Examination. That after filling vacancies in IPS cadre of Karnataka from Civil Services Examination 1999, the 30 point roster stopped at point no. 26, and because roster point no. 26 meant for an Insider candidate. Accordingly, Ms. Roopa D, an Insider candidate from Karnataka, was allocated to the IPS cadre of Karnataka through the Civil Services Examination, 1999 against roster point no. 26. That only one vacancy to be filled up in the IPS cadre of Karnataka from Civil Services Examination 2000 and in the 30 point roster, the said vacancy was meant for an 'outsider' candidate against roster Point No. 27 and accordingly, Shri Mukul Kumar (Rank 54), an outsider candidate belonging to Haryana, was allocated to the IPS cadre of Karnataka. Since the applicant was an 'Insider' candidate, belonging to Karnataka, he could not be allocated to IPS cadre of Karnataka. The applicant was, therefore, rightly allocated to the IPS cadre of the Rajasthan.

8. The applicant has also filed rejoinder. In the rejoinder, the applicant has stated that the respondents have wrongly shown cycle of Outsider and Insider before this Tribunal. During the course of the case, the applicant made a request dated 06.06.2011 under the provisions of

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RTI Act, 2005 before the respondent no. 1 to make available certain information regarding allotment in the State of Karnataka and in response to that, the applicant was apprised on behalf of the respondent no. 1 vide letter dated 28.06.211 that some information cannot be provided and for some information, the applicant was directed to inspect the record as made available to him and after going through the same, it has been found that roster relating to 2:1 ratio has not been properly maintained by the respondents and also took extract of the record which reveals that applicant was wrongly not allotted as insider to Karnataka State. Inspite of that fact, at the relevant time, roster point goes to 'Insider'. Beside this, as per extract several irregularities were noticed. Copy of the allotment shown by the MHA has been annexed as Annexure A/11. He further pointed out that it may be seen from Annexure A/11 that from 1983 upto 2000, the MHA shows that they have allotted 56 candidates to the State of Karnataka whereas actually only 55 candidates as per Gazetted Civil List of Karnataka were allotted and sent to Karnataka. The yearwise comparison chart of the total number of officers shown as allotted in a year to Karnataka against actual number of officers born in Karnataka cadre has been prepared and annexed as Annexure A/12. The applicant happens to be 56<sup>th</sup> candidate, in which case it comes in slot 26 the insider slot, at sr. no. 56 but MHA wrongly maintained roster year to year showing position of insider as well as outsider in any particular year more than

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that of the stipulated ratio and officers have been allocated to the Karnataka cadre. He has also stated that during the allotment year 1986, MHA has shown three candidates to have been allotted to Karnataka cadre but actually four candidates were sent to Karnataka. Again in the year 1992, it shows that three officers were allotted to Karnataka but actually four officers were sent to Karnataka. Similarly in the year 1996, five officers were shown as allotted to Karnataka but only three officers were actually sent to Karnataka as seen from Annexure A/12. Therefore because of this variation, there is difference in the number of candidates shown as allotted and number of officers actually sent to Karnataka. The roster says that MHA sent 56 candidates to Karnataka but only 55 candidates were sent to Karnataka cadre. Therefore, he has stated that correct roster should have been maintained and he should have been sent to the State of Karnataka as an insider.

9. Heard the rival submissions of the parties and perused the relevant documents on record. Learned counsel for the applicant argued that the State Government of Rajasthan had requested time & again to the Government of India to allot Karnataka to the applicant but MHA did not allot Karnataka cadre to the applicant as an insider instead he was allotted Rajasthan cadre. He further emphasized on the basis of information gathered through the Right to Information Act that MHA has not

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correctly prepared the roster point to Karnataka cadre. In this context, he drew our attention to Annexure A/11 and Annexure A/12. He further argued that according to roster, MHA has sent 56 candidates to Karnataka but only 55 candidates were sent to Karnataka. Out of these 55 candidates sent to Karnataka only 16 officers are insider. If 2:1 ratio is to be maintained by the cadre allotment rules, then the applicant should have been allotted State of Karnataka as an insider, therefore, he argued that the OA be allowed and the applicant be allotted State of Karnataka as an insider.

10. On the contrary, learned counsel for the respondents argued that allocation of the applicant to the IPS cadre by the Central Government is according to the provisions of Rule 5(1) of the IPS (Cadre) Rules, 1954. He further argued that Central Government has absolute power under the aforesaid Rule 5 of the Cadre Rules to allocate a Member of the Service to a particular State Cadre. This legal position has been laid down by the Hon'ble Supreme Court in the case of **Union of India vs. Rajiv Yadav**, 1994 SCC (L&S) 1265, and thereafter followed in **Union of India vs. Mhathung Kathan**, 1996 (5) SLR 692. In both these cases, the Hon'ble Apex Court has held that Rule 5 of the Cadre Rules provides that the allocation of the Members to the various cadres shall be made by the Central Government in consultation with the State Government concerned. When a person is appointed to an

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All India Service having State Cadres, he has no right to claim allocation to a State of his choice or to his home State. Allocation of cadre is an incidence of service and a Member of an All India Service bears the liability to serve in any part of India.

11. Having heard the rival submissions of the respective parties and having perused the relevant documents on record, we are of the view that the applicant has obtained certain information under the Right to Information Act, which he has annexed at Annexure A/11 and A/12. According to this information which the applicant has given with the rejoinder, it appears that MHA has shown that they have allotted 56 candidates to the State of Karnataka whereas actually 55 candidates, as per Gazetted civil list of Karnataka, were allotted and sent to Karnataka. According to the applicant, he happens to be 56<sup>th</sup> candidate and, therefore, he should have been allotted State of Karnataka as an insider. Moreover, out of 55 officers allotted to Karnataka, only 16 officers are insider and, therefore, also the applicant has a good ground to be allotted to Karnataka, if the ratio of 2:1 is to be maintained as per the Cadre Allotment Rules. Since the MHA and the Government of India is the custodian of all official record including Roster Register and Annexure A/11 has been prepared on the basis of the inspection of the record by the applicant under the Right to Information Act, we deem it proper and just to allow the applicant, if he so wishes, to file a

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detailed representation before the competent authority for the redressal of his grievances about the allotment of his cadre. The applicant may file such a representation within a period of one month from the date of issue of this order and the respondent no. 1/ competent authority is directed to decide the same within a period of three months by a speaking order. If any prejudicial order is passed against the applicant, he will be at liberty to file substantive OA for the redressal of his grievances.

12. With these observations, the OA is disposed of with no order as to costs.

*Anil Kumar*  
(Anil Kumar)  
Member (A)

*K.S.Rathore*  
(Justice K.S.Rathore)  
Member (J)

*AHQ*