

**Central Administrative Tribunal
Principal Bench**

**OA No.1617/2016
MA No.1586/2016**

New Delhi, this the 9th day of October, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Ajit Kumar
S/o Sh. Radha Prasad
Aged 36 years,
R/o L-101, Girnar Tower
Kaushambi, Ghaziabad,
UP 201010. ... Applicant.

(By Advocate : Shri Rabin Majumdar)

Vs.

1. Union Public Service Commission
Through its Chairman
Dholpur House,
Shahjahan Road,
New Delhi 110 003.

2. Union of India
Through Secretary
M/o Personnel, P.G., Pensions,
North Block,
New Delhi 110 001. Respondents.

(By Advocates : Dr. Ch. Shamsuddin Khan and Shri Ravinder Aggarwal)

: O R D E R (ORAL) :

Justice L. Narasimha Reddy, Chairman :

The applicant feels aggrieved by the order dated 22.07.2015 passed by the Department of Personnel & Training. Through the said order, the applicant was

informed that his request for appointing him to the IAS under physically handicapped category for the year 2006 cannot be acceded to.

2. The applicant took part in CSE-2006. He claimed the benefit of reservation under the category of Locomotor Disability and Cerebral Palsy (for short, LDCP). Since he was not appointed to any All India Services, he filed OA No.2717/2010. The OA was allowed through order dated 24.01.2011. In terms of the directions issued therein, the case of the applicant was considered and an order was passed.

3. It appears that on the basis of his performance in CSE-2009, he was allotted to Indian Defence Accounts Service (IDAS). Not satisfied with the allotment so made, the applicant filed OA No.2271/2012. The OA was dismissed through order dated 26.11.2013. Thereupon, the applicant filed Writ Petition No.1292/2014 before Delhi High Court. The writ petition was disposed of on 13.10.2014 directing that the case of the applicant be considered against one vacancy which is available in Indian Administrative Service. The applicant filed SLP in a limited context. However, that was withdrawn with liberty to file a representation ventilating his grievances. The representation was made

and on consideration thereof, the impugned order was passed.

4. The respondents stated that the case of the applicant has been considered as directed by the Hon'ble High Court and since it emerged that there are 13 candidates in LDCP category above him in CSE-2006, his request cannot be acceded to.

5. The applicant contends that the version put forth by the respondents is not borne out by record and is, not supported by the pleadings in the earlier proceedings.

6. The UPSC on the one hand, and DoP&T on the other, filed separate counter affidavits. According to them, initially a very big exercise had to be undertaken to fill the backlog vacancies of visually handicapped candidates for the years 1995 to 2005, and since the direction issued by the Hon'ble Supreme Court in **Government of India th. Secy. & Anr. Vs. Ravi Prakash Gupta** in SLP (C) No.14889/2009 dated 07.07.2010, was only in respect of visually handicapped candidates, the exercise was confined to them. It is further pleaded that the applicant has been allotted to the IDAS cadre as per the merit and since there are 13 candidates above him in all India ranking in CSE-2006, he cannot be allotted to IAS.

7. We heard Shri Rabin Majumdar, learned counsel for the applicant, Dr Ch. Shamsuddin Khan, learned counsel for DoP&T and Shri Ravinder Aggarwal, learned counsel for UPSC.

8. This is the 3rd round of litigation initiated by the applicant in his effort to get allotted to the IAS. In the 1st round, the OA was disposed of with certain directions. It appears that the applicant took part in CSE 2009 and on the basis of the performance therein, he was allotted to IDAS. However, the controversy is not about that. It has virtually boiled down to the one of implementation of the directions issued by Delhi High Court in W.P. No.1292/2014. The filing of SLP was not of much consequence except that the applicant was given liberty to institute proceedings afresh in case the consideration of his case by the respondents did not yield the expected result.

9. The respondents have categorically stated that there are 13 candidates above the applicant. In Exhibit R-5, the names of all such candidates of CSE-2006 were furnished. The applicant is not able to point out any defect or discrepancy in the list of the 13 candidates above him. It is fairly well settled by a catena of judgments of Hon'ble Supreme Court that it is always the merit that counts and

consideration cannot be confined only to those who approached the Court. Once it is not in dispute that there are 13 candidates above the applicant have not been allotted IAS, even if there exists a vacancy, the allotment should be on the basis of the merit and not otherwise.

10. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pj/