

**Central Administrative Tribunal
Principal Bench**

OA No.2630/2012

New Delhi, this the 2nd day of August, 2018

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

Ms. Vimla Nawaria
C/o Pooranmal Mohalla
Prem Nagar, Urf Kumharan,
V& P Dankaur
Teh. Kasna, Dist, Gautambudh Nagar,
UP 203201. Applicant.

(By Advocate, Shri Padma Kumar S.)

Versus

1. Union of India
Through Secretary
DoP&T, North Block,
New Delhi 110 001.
2. Secretary
Union Public Service Commission,
Dholpur House,
Shahjahan Road, New Delhi.
3. Shri Mohan Saurabh Krishna (CSE Rank 588)
Through Secretary
DoP&T, North Block,
New Delhi. Respondents.

(By Advocate, Shri Hanu Bhaskar and Shri Ravinder Aggarwal)

: O R D E R (ORAL) :

Justice L. Narasimha Reddy, Chairman:

The applicant took part in the All India Services Examination held in the year 2007, and secured 559th rank. She hails from SC category, and is also a physically handicapped. On the basis of her rank as well as social

and physical status, she has been allotted to Armed Force Headquarters (AFHQ) Civil Services.

2. This OA is filed with a prayer to direct the respondents to allot her to the Indian Post and Telegraph Accounts and Financial Service (IPTAFS) or Indian Railways Accounts Service (IRAS). The applicant contends that non-physically handicapped SC candidate having 588th rank, i.e., Respondent No.3, was allotted to ITPS, whereas respondent Nos.4 & 5, who secured 593rd & 596th rank respectively, were allotted to IRAS. Reliance is also placed upon an order passed by the Chief Commissioner for persons with disabilities dated 24.11.2010, as well as the judgment of Hon'ble Supreme Court in **Rajesh Kumar Daria vs. Rajasthan Public Service Commission and Others** (2007) 8 SCC 785.

3. The respondents filed the counter affidavit opposing the OA. Serious objections are raised, both as regards limitation, as well as non-impleadment of the necessary parties. It is stated that the cadre allocating authority has examined the matter in detail, and by taking into account, the rank and physical and social status of the applicant, allotted her to the AFHQ Civil Services. It is also stated that if cadre allocation is interfered with, at this stage, serious

problems would arise and several persons would be dislocated from their cadres. Reliance is placed upon an order passed by this Tribunal in OA No.458/2013 and batch, Amit Goyal & Ors. Vs. UOI & Ors., decided on 01.08.2016.

4. We heard Shri Padma Kumar S., learned counsel for the applicant, and Shri Hanu Bhaskar and Shri Ravinder Aggarwal, learned counsel for the respondents.

5. The cadre allocation in question is of the year 2007. Eleven years have passed since then. The OA was filed in the year 2012, i.e., five years after the allocation was made. It is no doubt true that an application for condonation of delay is made, and it was ordered. However, developments that have taken place in the span of five years, and the rights that have accrued to various officers of different cadres, cannot be ignored.

6. The second aspect is about the impleading of the affected parties. In case, the contention of the applicant is accepted, it is bound to result in dislocation of one officer in service, to which she may be allocated and that, in turn, would have its cascading effect on various other services. By this time, the officers in the respective cadres may have secured promotions and got several rights. Though the

applicant impleaded respondent Nos.3, 4 & 5 initially, she filed MA No.679/2016, with a prayer to delete respondent Nos.4 & 5 from the array of parties for the reasons best known to her. That was allowed on 18.05.2016. It is not, as if, respondent Nos.4 & 5 approached this court, and filed application for deletion of their names from the cause title. When the applicant herself has initially impleaded them stating that respondent Nos.4 & 5 would be affected in the event of any relief granted to her, and later on has deleted those persons, the nature of complication that may arise would not be difficult to imagine.

7. In ***J. S. Yadav vs. State of UP and Anr.*** (2011) 6 SCC 520, the Hon'ble Supreme Court held that in the matters of this nature, any relief granted would have the effect of disturbing several other officers, and unless these persons are impleaded, the relief cannot be granted. As a matter of fact, this Tribunal dismissed OA No.458/2013 and batch by applying the ratio of that judgment.

8. Even on merits also, there are several complicated issues, which cannot be answered on the basis of the pleadings that are before us. Reservation in case of the applicant is both horizontal and vertical. The identification of posts for physically handicapped candidates is another

exercise. It is only certain specific categories of posts that are earmarked for physically handicapped categories. There again, much would depend upon the nature and extent of handicap on the one hand and the requirements of the post on the other. The applicant is not able to demonstrate as to how many physically handicapped candidates with less mark than her have been allocated a better cadre.

9. We are not inclined to grant any relief, both on the ground of delay in instituting the proceedings, as well as non-impleadment of the necessary parties. The OA is accordingly dismissed.

There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pj/