

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.4115/2012

This the 6th day of September, 2018

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

Dr. Ashish Singh Thakur S/o P. S. Thakur,
R/o Radhika Niwas, Daihan Para,
Purana Sarkanda, Bilaspur,
Chhatisgarh-495001. ... Applicant

(By Mr. Padma Kumar S., Advocate)

Versus

1. Union Public Service Commission
through its Secretary,
Dholpur House, Shahjahan Road,
New Delhi-110003.
2. Union of India through Secretary,
Ministry of Personnel, P.G. & Pensions,
Department of Personnel & Training,
North Block, New Delhi-110011.
3. Shri Himanshu Kumar Rai
through Ministry of Personnel P.G. & Pensions,
Department of Personnel & Training,
North Block, New Delhi-110011.
4. Ms. Karuna Kumari
through Ministry of Personnel P.G. & Pensions,
Department of Personnel & Training,
North Block, New Delhi-110011. ... Respondents

(By Mr. Saqib for Mr. Ankur Chhibber, and Mr. Aditya Ranjan,
Advocates)

ORDER

Justice L. Narasimha Reddy, Chairman :

The applicant participated in the Civil Services Examination in the year 2008. He is a visually handicapped person. On the basis of his performance in the written examination and interview, he was assigned rank No.435 in the merit list. The applicant gave first preference to the Indian Administrative Service (IAS), and second preference to the Indian Foreign Service (IFS). However, he was appointed to the Indian Postal Service.

2. In the context of determination of vacancies available for visually handicapped persons in the All India Services, the High Court of Delhi examined the matter in detail in WP(C) No.5429/2008 filed by one Ravi Prakash Gupta, through its judgment dated 25.02.2009. It was observed that during the period between 1996 and 2006, eight vacancies were available for visually handicapped persons in the IAS. The SLP filed against that by the Union of India was dismissed on 07.07.2010. In view of this development, the applicant filed OA No.2717/2009, claiming relief in terms of the judgment of the High Court. That OA was disposed of on 08.10.2010, along

with batch of other OAs, with certain directions. Complaining that the directions issued in the said order were not complied with, the applicant filed CP No.105/2012. That was dismissed on 10.04.2012, taking into account, the steps that had been initiated by the respondents.

3. The respondents addressed a letter dated 09.01.2012 (Annexure A-1) informing the applicant that his case has been considered for allocation in terms of the judgment of the High Court, that though effort was made to appoint him to the IAS, no vacancies were available, and accordingly he was offered appointment to the IFS. The applicant challenges the said order in this OA. He contends that the exercise undertaken by the respondents is incorrect and imperfect, and had it been done in accordance with the judgment of the Delhi High Court, he would have been appointed to the IAS. He seeks consequential directions in this regard.

4. The respondents filed counter affidavits. They contend that the vacancies that were earmarked for the visually handicapped persons for the relevant period were reckoned accurately, and since it was found that there were other meritorious candidates in the same category, compared to the

applicant, they were appointed against them, and the applicant was offered appointment to the IFS, his second preference.

5. Heard Shri Padma Kumar S., learned counsel for the applicant, and Shri Saqib and Shri Aditya Ranjan, learned counsel for the respondent.

6. This is the second round of litigation undertaken by the applicant in the context of appointment to the All India Services. His first preference was IAS and second was IFS, but he was appointed to the Indian Postal Service, in the year 2008. Ten years have elapsed, and the issue is still under consideration, after passing through several stages.

7. Learned counsel for the applicant submitted that eight vacancies were available in the IAS for visually handicapped persons for the relevant period, and the respondents are not coming forth with the relevant particulars. A perusal of the impugned order, however, discloses that at the time of consideration, two vacancies were available in the IAS, two vacancies in the IFS, and one vacancy each in the Indian Civil Accounts Service and the Armed Forces Headquarters Service, and that the UPSC recommended a list of suitable candidates against the backlog vacancies through its letter

dated 30.08.2011 and reconfirmed through letter dated 05.12.2012. It was mentioned that candidates recommended by UPSC are from the original list of CSE 2007, 2008 and 2009, and they were accordingly upgraded. The manner in which the case of the applicant was considered is mentioned in paras 1.2 and 2, which read as under:

“1.2 Now this Department has carried out an exercise of service allocation/re-allocation to the all the candidates available in the original lists for CSE-2006 to CSE-2009 and to the candidates newly recommended by the UPSC against backlog vacancies, keeping in view the total number of vacancies available in the original list from CSE-2006 to CSE-2009 and the vacancies now worked out as backlog, the CSE year of the candidates, the Rank secured by a candidate in the Examination, the Preference given by the candidates for various services in the detailed application form for CSE (Mains) Examination.

2. On the basis of the above parameters, you have been re-allocation to the Indian Foreign Service, Group ‘A’ from CSE-2008.”

Learned counsel for the applicant is not able to point out that any candidate who is less meritorious than the applicant for the relevant year, was appointed to the IAS in preference to him. In the absence of such a plea, we cannot grant any relief to the applicant.

8. The OA is accordingly dismissed. There shall be no orders as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/as/