

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.4576/2018

Thursday, this the 20th day of December 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

1. Himanshu Kumar Verma
s/o Shri Madan Pal Singh
H.No.13/9, Vikaspuri Colony
Fazalpur Rohta Road
Kankerkhera Meerut, UP 250001
2. V V Sai Praneeth
s/o V V Lakshmi Narayana
r/o H.No.S-2, 85/A, MLA Colony Road
No.12, Banjara Hills, Hyderabad - 500034

..Applicants
(Mr. Anirudh Bakhru, Mr. Sudhir Chandra and Mr. Shadman Ahmed Siddiqui, Advocates)

Versus

1. Union of India through its
Ministry of Personnel & Public Grievances & Pensions
Department of Personnel & Training
Through Joint Secretary
Department of AR & PG
Sardar Patel Bhawan,
Parliament Street, New Delhi – 110 001
2. Ministry of Home Affairs
Through Joint Secretary
North Block, Central Secretariat
New Delhi – 110 001
3. Union Public Services Commission
Through its Chairman
Dholpur House, Shahjahan Road
New Delhi

..Respondents
(Mr. Hanu Bhasker, Mr. Gyanendra Singh and Mr. Amit Sinha
for Mr. R V Sinha, Advocates)

O R D E R (ORAL)**Justice L. Narasimha Reddy:**

The applicants initially approached the Hon'ble Delhi High Court. The case was transferred to this Tribunal. In view of the urgency, we heard the O.A. in some detail at the 1st hearing. The O.A. was adjourned for today, to enable the learned counsel for the respondents to obtain instructions. Today, the case is argued at length. On the request of the applicants, we are disposing of the O.A. at this stage itself.

2. The applicants participated in the Civil Services Examination, 2017. The applicant No.1 secured 676 rank and applicant No.2 secured 196 rank. They were not allocated to Indian Administrative Service (IAS). Their next preference was to Indian Police Service (IPS). This O.A. is filed with a prayer to direct the respondents to make allocation of the candidates to the cadres in accordance with O.M. dated 05.09.2017, purely on the basis of merit and correct interpretation of the same, in particular, the paragraphs (3), (4), (8) (iii) & (10).

3. In the O.M. dated 05.09.2017, the manner, in which the policy for cadre allotment for the All India Services, namely, IAS/IPS/Indian Forest Service (IFoS), is indicated. The entire States/Joint Cadres are divided into 5 Zones for this purpose and in each zone, respective States cadres are indicated. Paragraph 2 of the O.M. reads as under:-

“2. The States/Joint Cadres shall be divided into the following five Zones:-

- i. Zone-I (AGMUT, Jammu and Kashmir, Himachal Pradesh, Uttarakhand, Punjab, Rajasthan and Haryana)
- ii. Zone-II (Uttar Pradesh, Bihar, Jharkhand and Odisha)
- iii. Zone-III (Gujarat, Maharashtra, Madhya Pradesh and Chhattisgarh)
- iv. Zone-IV (West Bengal, Sikkim, Assam-Meghalaya, Manipur, Tripura and Nagaland)
- v. Zone-IV (Telangana, Andhra Pradesh, Karnataka, Tamil Nadu and Kerala).”

4. The candidates are required to exercise their options not only with respect to zones but also to the cadres. The manner, in which the options are to be exercised, is indicated in paragraphs (3) & (4), which read as under:-

“3. The candidates shall first give their choice in the descending order of preference from amongst the various Zones. Thereafter the candidates will indicate one preference of cadre from each preferred zone. The candidates will indicate their second cadre preference for every preferred zone thereafter. Similar process will continue till a preference for all the cadres is indicated by the candidate. It is to be noted that preference for the zones will remain in the same order and no change in the order of preference for the zones/cadres will be permitted.

4. If a candidate does not give any preference for any of the Zones/Cadres, it will be presumed that he has no specific preference for those Zones/cadres. Accordingly, if he is not allocated to any one of the cadres for which he has indicated the preference, he shall be allotted along with other such candidates in the order of rank to any of the remaining cadres, arranged in an alphabetical order, in which there are vacancies in his category after allocation of all the candidates who can be allotted to cadres in accordance with their preference.”

5. A perusal of the same discloses that a candidate is required to give preferences in respect of the zones as well as cadres. If a candidate has indicated the zone and cadre but that is allotted to him, at the first instance, his preferences in the next zone would be considered. This process would be continued till all the zones are exhausted. Thereafter the exercise is to be repeated to consider the second preference exercised by him in each zone.

6. With a view to ensure that the choice of candidates is not restricted to any particular zone or cadre in a zone, paragraph (4) mandates that if a candidate does not choose all the zones and all cadres, it would be presumed that he has no specific preference for those zones/cadres and accordingly, his allocation would be made along with other candidates in the order of merit to any other remaining cadres, arranged in an alphabetical order. This, however, would be done after their options, to the extent they are without any break, are considered.

7. In the instant case, the applicants have exercised their options only in respect of 3, out of 5 zones. They did not exercise their option for zones II and IV. Their options in respect of other zones were, in fact, considered in the first round but when it is emerged that they are not entitled for allocating to those cadres on account of their merit, they were

considered along with other candidates and allocation was made as indicated in paragraph (4).

8. Paragraph (8) indicates the method of allotment in detail.

It reads:-

“8. The cadre allocation shall consist of three steps as follows:

(i) First, all these candidates who can be allocated against the Insider vacancies available in their category would be so allocated.

(ii) Second, the candidates who are eligible for allocation to their Home cadre as per Para 7 above will be allocated first as per clauses(s) of Para 7 above. Even after this exchange as per para 7 above, if an Insider vacancy cannot be filled, it would be converted to Outsider vacancy and filled as such and it would not be carried forward to next examination year.

(iii) Finally, the allocation against Outsider vacancies (including the Outsider vacancies, which remained eventually unfilled after the allocation as per clause (i) and (ii) of para 8 above) would commence. Allocation against Outsider vacancies to candidates in respective categories shall be done in the following manner:-

- (a) The first choice for the Cadre in the first preferred Zone would be considered in the order of merit.
- (b) If the candidate does not get allocated to the 1st preferred Cadre of his 1st preferred Zone, then he would be considered for the first preferred cadre of his 2nd preferred Zone and so on till the 1st preferred cadre of the 5th preferred Zone.
- (c) If the candidate does not get allocated to the 1st preferred cadre(s) of any Zone, then he would be considered for the 2nd preferred cadre of the 1st preferred cadre of the 1st preferred Zone and so on.
- (d) However, in this process, if the cadre for which allocation is being considered is the

Home cadre of the candidate, then that preference for Home Cadre in the Zone would be ignored and would be considered for next zone. Notwithstanding this, however, if during the course of allocation against the Outsider vacancies as above a candidate is going to be allocated to his own Home cadre because there are no other vacancies left for allocation other than those in his Home cadre, an 'exchange' would be restored to whereby the allocation of such candidate would be swapped with the cadre allotted to the first candidate above him in the list whose Home state and allotted cadre are different."

9. Learned counsel for applicants submits that it is not mandatory for a candidate to indicate preference in respect of all the zones, much less, all the cadres. He contends that the online system would permit a candidate to choose only some zones or cadre. We are not impressed by this argument. This, however, cannot be accepted in view of the specific language implied in paragraph (4) of the O.M. The applicants have not challenged the said O.M. In fact, the prayer in the O.A. is to enforce that O.M. We are satisfied that the respondents followed the O.M. strictly.

10. During the pendency of the O.A., the cadre allocation was made and both the applicants are allotted to the cadre of Nagaland. We do not find any deviation from the policy regarding their allocation to that cadre. In any case, if the applicants feel aggrieved by such allocation, they have to seek

specific relief in this behalf, duly impleading persons, who are likely to be affected.

11. We, therefore, dispose of this O.A. leaving it open to the applicants to pursue their remedy in accordance with law, if they feel aggrieved by the allocation of cadre.

Order **dasti**.

December 20, 2018
/sunil/