

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A./100/3962/2015
M.A./100/582/2019

New Delhi, this the 5th day of September, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

Shri S. Sundar,
IFS (P) 2014 Batch,
IGNFA, Dehradun,
Uttarakhand

....Applicant

(Through Sh.A.K. Behera and Sh.Ramesh Rawat, Advocates)

Versus

1. The Union of India represented through
The Secretary,
Ministry of Environment, Forests &
Climate Change,
New Indira Paryavaran Bhavan,
Jorbagh, New Delhi-110003
 2. The Secretary,
Department of Personnel & Training,
Ministry of Personnel, Public Grievances & Pensions
North Block, New Delhi
 3. The State of Assam
Through its Chief Secretary,
Secretariat,
Dispur, Guwahati,
Assam State
 4. The State of Kerala
Through its Chief Secretary,
Secretariat,
Thiruvananthapuram,
Kerala State
- ... Respondents

(Through Shri Rajinder Nischal, Advocate)

ORDER (Oral)

Justice L. Narasimha Reddy, Chairman

The applicant is an Indian Forest Service (IFS) officer of 2014 batch. His home State is Kerala and he was allocated to the Assam-Meghalaya Cadre.

2. The applicant contends that during the year 2015 when the allocations were made, two vacancies were available in Kerala cadre of IFS out of which one was meant for Outsider (OBC) and another, for Insider (SC). He contends that there was no Insider candidate belonging to SC and though the policy provided for filling of vacancy by a ST, OBC or Unreserved, in that order, depending upon the availability, nobody was allocated against that vacancy.

3. The applicant submits that he was entitled to be allocated to the Insider vacancy of Kerala cadre of IFS of 2014 batch and was wrongfully denied the same. On a representation made by him, the respondents passed order dated 27.04.2015 rejecting his request. This OA is filed challenging the order dated 27.04.2015 and for a direction to the respondents to consider reallocation of the cadre of the applicant to his home State of Kerala in accordance with the cadre allocation policy contained in the memorandum dated 10.04.2008.

4. Respondents 1 and 3 filed separate counter affidavits. According to them, though one Insider vacancy was available in Kerala cadre of IFS, for the 2014 batch, which was meant for SC category no candidate was available for that category. It is also stated that one Mr. P. Akash who was more meritorious than the applicant was allocated against that vacancy, but he did not join the service and accordingly, the vacancy remained unfilled. It is stated that if any allocation is done at this point of time, it will lead to several complications.

5. We heard Shri A.K. Behera, for the applicant and Shri Rajinder Nischal, for the respondents.

6. The undisputed facts are that the applicant figured in the list of candidates of IFS of 2014 batch at serial number 33. It is also a matter of record that there existed an Insider vacancy in the Kerala State Cadre and it was earmarked for SC category. According to the OM dated 10.04.2008 issued by the Department of Personnel and Training (DoP&T) on the method of cadre allocation, if no candidate is available against Insider vacancy in the SC category, the same shall be made available to a ST candidate in the list, and if such a candidate is not available, the allocation shall be made of an OBC candidate in the merit list and, ultimately, if an OBC is not available, the vacancy can be filled by an Unreserved candidate from that State.

7. The applicant is an Unreserved candidate for whom, Kerala is the home State. He has also opted for that. Admittedly, there was no SC candidate, or for that matter, those from ST or OBC hailing from Kerala, in that batch. One Mr. P. Akash, who too is an unreserved candidate, is from Kerala State. The fact, however, remains that by the time allocation has taken place, his candidature has been cancelled through an order dated 30.01.2015. It reads as under:

“I am directed to say that you were recommended for appointment to the Indian Forest Service of the Union Public Service Commission on the basis of the results of Indian Forest Service Examination, 2013. However, you have not reported for Foundation Course in September, 2014/professional training in December, 2014 at IGNFA. As per clause 11 of offer of appointment in the event of not joining the Training on the stipulated date, your candidature was liable to be cancelled.

2. Since you have failed to join the training on the stipulated date, your candidature for the Indian Forest Service Examination 2013, is hereby cancelled with the approval of the competent authority. It may please be noted that no further correspondence will be entertained in this regard.”

8. The exercise as regards allocation of candidates of that batch appears to have begun only sometime in the year 2015. By that time, the candidature of Mr. P. Akash was cancelled. Despite that he was shown against the Insider vacancy of Kerala cadre. This does not appear to be correct. Even if the allocation made in February 2015 can be treated as provisional, the final allocation was made only on 31.03.2015. Much before that, the candidature of Mr. P. Akash was cancelled. It is also relevant to mention that the cadre

allocation on the one hand, and cancellation of candidature on the other, are done by the same Ministry.

9. From the above, it becomes clear that the Insider vacancy of Kerala State was left unfilled though a candidate i.e. the applicant was otherwise eligible. The mistake, if any, in this regard has occurred on account of (a) the failure of Ministry of Environment and Forest in taking note of the cancellation of the candidature of P. Akash, passed by itself; (b) order allocating him against the Insider vacancy of Kerala cadre, even after cancellation; and (c) keeping the vacancy unfilled.

10. It is true that reallocation of any candidate in All India Service would lead to several complications with cascading affect. However, since the Insider vacancy of 2014 was unfilled, the allocation of the applicant to that cadre may not result in displacement of any candidate. At the most, vacancy which is now available, may have to be filled by the applicant in the form of compensation for keeping the vacancy of 2014 unfilled. The interest of the IFS officers who joined Kerala cadre in 2014 and subsequent years, can also be protected by directing that the applicant shall take seniority below them, in the State cadre. We also record that the applicant is agreeable for this course. It is needless to mention that the applicant shall retain his status in All India Cadre.

11. We, therefore, allow the OA and direct that the respondents shall take steps to consider allocation of the applicant against the Insider vacancy of the year 2014 without displacing or disturbing the position of any officer of IFS of that batch or subsequent batches. The applicant shall take seniority below IFS officers of the State who have been confirmed by now. His All India Seniority shall however remain intact. This exercise shall be undertaken within a period of 3 months from the date of receipt of a certified copy of this order. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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