
(1993) 09 SC CK 0142
In the Supreme Court Of India
Case No : Civil Appeal No. 5013 Of 1993

A. Subbaih

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 10-09-1993

Acts Referred:

Citation : (1995) 1 SCC 210 Supp

Hon'ble Judges : S. C. Agrawal, J;Kuldip Singh, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Special leave granted.

2. The appellant was appointed to the Indian Revenue Service on the basis of the Civil Services Examination held in the year 1989. While in service he took the Indian Civil Services Examination again in the year 1991. He sat in the said examination under the interim orders of the central Administrative tribunal and also of this court. It is not disputed that the appellant has qualified for the Indian Administrative Service and has achieved very high merit being at No. 29 of the merit list. The appellant belongs to the Scheduled Tribe.

3. Rule 4 of the Civil Services Examination Rules, 1986 (the Rules) provides that a candidate, taking the examination, must resign from the service to which he is already appointed. The vires of this rule has been upheld by this court in Mohan Kumar Singhania v. Union of India. Since the appellant did not resign from the Indian Revenue Service before taking the Indian Civil Services Examination, 1991 the respondents, taking shelter behind Rule 4 of the Rules, are not permitting the appellant to join the Indian Administrative Service to which he has been selected. Technically no fault can be found with the stand taken by the respondents. We are, however, of the view that keeping in view the facts and circumstances of this case specially that the appellant sat in the 1991 examination under the directions of this court he should be given the benefit of

the said examination. It is not disputed before us that several candidates similarly situated who sat in the Indian Civil Services Examinations during the period 1986-90 without resigning their jobs were given the benefit of their selection. It would be travesty of justice if the appellant is denied the fruit of his selection to the Indian Administrative Service.

4. We set aside the impugned judgment of the central Administrative tribunal and direct the respondents to declare the result and consequent merit of the appellant in respect of the Indian Civil Services Examination, 1991. He shall be entitled to the appointment to the Indian Administrative Service in the year 1991 batch as a result of the above-said examination. The appeal is allowed in the above terms. No costs.