
(2022) 04 CAT CK 0031

In the Central Administrative Tribunal

Case No : Original Application No. 3797 Of 2014

Jatin Nagpal & Others

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 18-04-2022

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2022) 04 CAT CK 0031

Hon'ble Judges : A.K. Bishnoi, Member (A); R.N. Singh, Member (J)

Bench : Division Bench

Advocate : Ajesh Luthra, Gyanendra Singh

Final Decision : Disposed Of

Judgement

A.K. Bishnoi, Member (A)

1. In the present OA filed under Section 19 of the Administrative Tribunals Act, 1985, the applicants, two in number, are aggrieved by the allocation of a wrong State/region consequent to their selection/ appointment to the post of Inspector (Excise) under the respondent nos.1 and 2. The applicants have prayed for the following reliefs:-

"Reliefs:-

(a) direct the respondents to allot Delhi State/region to the applicants in their CBEC service consequent to their selection/appointment in Common Graduate level Examination-2011, with all consequential benefits including seniority

(b) award costs of the proceedings and

(c) pass any other order/direction which this Hon'ble Tribunal deem fit and proper in favour of the applicants and against the respondents in the facts and circumstances of the case."

2. Brief facts of the case are that pursuant to employment notice (Annexure A/1)

for Combined Graduate Level Examination-2011 (hereinafter referred to as ? CGLE-2011?) for filling up various posts under various Ministries/Departments issued by the respondent No.3, the applicants applied and participated in the selection process. Both the applicants obtained 458.25 marks on the basis of their performance in Tier-I and Tier-II examinations (Annexures A-1 and A-2 respectively) followed by an interview. On the basis of their performance and merit position, the applicants were allocated the post of Inspector in Central Excise, i.e., under respondent nos.1 and 2 and as per their preferences for the place of posting, they were given their first preferred place, i.e., Punjab, Haryana & Chandigarh (Annexure A-4 Colly). As per the Annexure-I issued by the respondents, preference for place of posting has been provided as under:-

“Preference for place of posting Candidates are advised that State-wise options in order of preference for States/UTs are being sought to consider them for allocation in the even of their selection for posting /postings taking into consideration their position in the merit order subject to availability of vacancies/ policies of the Commission in this regard. Candidates are advised to exercise preference for all States/UTs for which options are not exercised by them.

Sl. No.

State/UT

Sl. No.

State/UT

Xx

Xx

Xx

Xx

F

Delhi

Xx

Xx

Xx

Xx

U

Punjab, Haryana & Chandigarh”

3. Learned counsel for the applicants has argued that as the applicants were desirous of their posting at Haryana, they had opted for preference ‘U’ in as

much as for Punjab, Haryana and Chandigarh States, option so provided was 'U'. However, after joining, the applicants came to know that Excise Department in CBEC, Haryana, is not covered under the State block shown as 'Punjab, Haryana & Chandigarh' by the Staff Selection Commission (in Short 'SSC') and instead covered under the Delhi Region. The applicants were shocked and felt cheated at the hands of the SSC. Had the SSC shown the option(s) correctly, the applicants would have got Delhi region comprising Haryana, as they had got marks above the cut-off marks towards CBSE service for Delhi State, which were only 457. The cut-off for the 'Punjab, Haryana & Chandigarh' region was 455.75.

4. Pursuant to notice, a short affidavit has been filed by the respondent no.3 and on behalf of remaining respondents, a statement was made that no reply on their behalf is required. However, when the matter came up for final hearing, it was felt that reply from respondent nos.1 and 2 was also necessary and so on being asked, a short reply affidavit on behalf of respondent nos.1 and 2 has also been filed. In the said reply, it is stated on behalf of respondent nos.1 and 2 that on the basis of their respective marks/preference, the applicants were finally selected and were nominated by the respondent no.3 to the respondent No.2 for issuance of offer of appointments after completion of all the formalities relating to their appointments. The applicants were posted in a State other than Haryana in terms of their preferred State category code, i.e., 'U'. It has also been stated that all the posts advertised under the said notification, carry all India service liability and the candidates selected for appointment(s) is/are liable to serve anywhere in India. A candidate opted for a particular State option, the same cannot be changed.

5. Learned counsel for the applicants has argued that once option code for place of posting qua Punjab, Haryana & Chandigarh was 'U', there was no reason or justification for the applicants to opt for 'F', i.e., meant for place Delhi. He has further submitted that even the respondents have subsequently realized their mistake and in as much as the said practice has been stopped since CGLE-2014. This fact has not been disputed by the respondents.

6. Learned counsel for the applicants has further argued that a prudent person desirous to get posted at Haryana cannot even imagine giving a preference 'F' which is meant for place Delhi when specifically for places like Punjab, Haryana and Chandigarh, the respondents have prescribed option 'U'. The learned counsel for the respondents have made submissions with the assistance of the submissions made in the counter reply and briefly noted hereinabove.

7. We have carefully considered the arguments advanced by the learned counsels for the respective sides as also the pleadings and documents placed on record.

8. The applicants appeared in Combined Graduate Level Examination -2011 (CGLE-2011) conducted by Staff Selection Commission (SSC) for filling up of various posts as per the requirement of the different Ministries/Departments. The system as was prevalent at that time and which continued till the year 2013, as

per the documents produced before us, was that a common competitive examination was conducted by the recruiting agency, i.e., the Staff Selection Commission (SSC) following which the SSC provided to the successful candidates a proforma in which they were asked to submit the choice of service and also the choice for place of posting in order of preference.

9. Some of the States/Union Territories were clubbed into groups and the choice to be indicated was to be for a particular group of States/Union Territories or individual State/Union Territory, as the case may be. This entire exercise was conducted by the SSC following which the choices indicated by the candidates with respect to posts as also the place of posting were forwarded to the user department.

10. In the present case the only area of controversy is regarding the place of posting. The applicants gave their first preference as 'Punjab, Haryana & Chandigarh' since they wished to be allocated a zone in which Haryana was included being desirous of serving in the State.

11. Though in the form provided by SSC to the applicants, Haryana was part of the group listed as 'Punjab, Haryana & Chandigarh', as per the grouping decided by the user department the Central Board of Excise & Customs (CBEC), Haryana was included in the Delhi Region. The contention of the applicants, which is not disputed, is that had they been asked to indicate their preferences in a form in which Haryana was included in the Delhi Region they would have opted for Delhi Region and would have also been allocated the same in view of their merit. Instead they were provided with a form in which 'Punjab, Haryana & Chandigarh' was the group and they accordingly chose the same.

12. In the system, as was prevalent in the year 2011, when the applicants participated in the said examination, the interaction of the candidates was restricted to only the SSC. The choices both for posts as also the place of posting were submitted to the SSC and there was no connection or contact between the candidates and the user department. We have been informed that from 2014 onwards, the system has changed to the extent that whereas the choice of posts is submitted to the SSC, further option for place of posting is submitted to the user department for which the candidate is selected. It is, therefore, apparent that in the relevant year 2011, regarding place of posting the candidates had to submit their preferences only as per the choices provided in the form prescribed by the SSC and not as per the classification decided by the individual user departments. It was for the SSC and the user department to coordinate among themselves so that no discrepancy or inconsistency arose, as has happened in the instant case. If there was any miscommunication or gaps in the sharing of the information in this regard, surely the applicants cannot be made to suffer for the same.

13. In the light of the foregoing discussions, it is directed that Respondent No.2-CBEC and Respondent No.3-SSC shall undertake such measures, as may be

required, to allocate to the applicants a Region of which the State of Haryana is a part and pass necessary orders in this regard within a period of eight weeks from the date of receipt of this order. The applicants shall also be entitled to consequential benefits.

14. The OA is accordingly disposed of in the aforesaid terms. There shall be no order as to costs.