

(2019) 05 CAT CK 0067

In the Central Administrative Tribunal

Case No : Original Application No. 368 Of 2019

Shubham Agarwal

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 13-05-2019

Acts Referred:

Citation : (2019) 05 CAT CK 0067

Hon'ble Judges : L. Narasimha Reddy, J; Mohd. Jamshed, J

Bench : Division Bench

Advocate : Neeraj Malhotra, Parmatma Singh, Aditya Jain, Mayank Jain, Madhurima Jain

Final Decision : Allowed

Judgement

1. The applicants are IPS trainees. They participated in the Civil Services (Preliminary) Examination conducted on 18.06.2017 and the Main examination conducted thereafter, followed by the personality test. While the 1st applicant secured the 202nd rank, the 2nd applicant got rank of 672. Both of them were allocated to IPS vide Press Note dated 27.04.2018 issued by the concerned authority.

2. In the context of cadre allocation, all the candidates were required to indicate their preferences in accordance with the policy contained in Office Memorandum dated 05.09.2017. According to that, the cadres were divided into five zones, and in each zone, various cadres, mostly contiguous to one another were included. It was also mentioned that if any candidate does not intend to choose any particular zone or cadre within the zone, he must indicate "99" against that.

3. The applicants contend that they indicated their preferences, but were not allocated the zones of their preferences. According to them, the respondents have shifted the candidates to General Pool, once they reached any stage where the indication "99" was noticed, either in the context of zone or cadre. The applicants contend that in the process, they were allotted to Tripura and Kerala

zones vide Notification dated 19.12.2018.

4. This OA is filed with a prayer to a) quash and set aside the Notification dated 19.12.2018, and b) direct the respondents to undertake fresh cadre allocation on the basis of merit after considering all preferences indicated by them for cadre allocation.

5. The applicants contend that for shifting of a candidate to the General Pool, the sole ground that he did not indicate preferences against all zones and cadres, is contrary to the policy as well as the general principles of allocation of cadre. Various other grounds are also urged.

6. The respondents filed a counter affidavit opposing the OA. It is stated that the policy indicated in the OM dated 05.09.2017 was evolved with a view to ensure the all India character of the services and to avoid concentration of the officers, particularly, the meritorious ones in the home cadres or their neighboring cadres. It is also stated that the Tribunal cannot interfere with the policy.

7. We heard Shri Neeraj Malhotra, Sr. Advocate assisted by Shri Parmatma Singh and Shri Hanu Bhaskar and Shri R. V. Sinha, learned counsel for the respondents.

8. Extensive arguments are advanced on behalf of both the parties. It is also necessary to mention that in OA No.4576/2018, a Division Bench of this Tribunal, to which one of us (The Chairman) is a party, passed order dated 20.12.2018 upholding the allocation which was similar to the one in respect of the applicants herein. Feeling aggrieved by that, the applicants therein filed W.P. (C) No.109/2019 Himanshu Kumar Verma and Anr. vs. Union of India and Others. In addition to that, certain writ petitions were directly filed before the Hon'ble High Court on the same subject.

9. The necessity for us to deal with the matter in detail, is obviated, on account of the fact that recently on 03.05.2019, the Hon'ble Delhi High Court delivered its judgment in the writ petitions referred to above. It was held that the procedure adopted by the respondents in allocation of cadres is not correct, and that a candidate cannot be pushed to the General Pool simply because he did not indicate his preference for a zone or cadre. The cadre allocation in respect of IAS and IPS made through Notifications dated 03.12.2018 and 19.12.2018 respectively was quashed and set aside. The operative portion of the judgment reads as under:-

"86. For all the aforesaid reasons, we are inclined to allow these writ petitions and to quash the cadre allocations made by the respondents of the IAS Officers vide communication dated 03.12.2018, and the IPS Officers vide OM dated 19.12.2018. We, accordingly, direct so.

87. We are inclined to grant relief to the petitioners considering that they have approached this Court at the very earliest and at a stage when neither the IAS officers, nor the IPS officers of the 2018 batch have commenced their on-site training which are cadre specific. We also accept the submission of the

petitioners that cadre allocation is a matter which would affect their careers for all times to come, and re-allocation of cadres by the respondents should not take much time considering that the same is done electronically, i.e. through the computer program or software. The respondents are already possessed of the requisite data in this regard.

88. We, therefore, direct the respondents to undertake fresh cadre allocation of the successful candidates allocated to the IAS and IPS, according to their merit and by taking into consideration the preferences given by the candidates irrespective of whether they have filled "99" in any of the zones or cadres. If a candidate is not able to get any of the preferred cadres according to his rank, cadre allocation in respect of such a candidate may be resorted to in the manner set out in later part of paragraph 4 of the OM dated 05.09.2017, i.e. he may

"be allotted along with other such candidates in the order of rank to any of the remaining cadres, arranged in alphabetical order, in which there are vacancies in his category if allocation of all the candidates who could be allotted to cadres in accordance with their preference"

10. We, therefore, allow the OA in terms of the judgment of the Hon'ble Delhi High Court in W.P. (C) No.109/2019 Himanshu Kumar Verma and Anr. vs. Union of India and Others decided on 03.05.2019.

There shall be no order as to costs.