

## Shubham Agarwal Vs Union Of India

**Court:** Central Administrative Tribunal Principal Bench, New Delhi

**Date of Decision:** May 13, 2019

**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 Honâ€™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 Honâ€™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 the preference 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 is not possible.

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.