



**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NOS.11302-11303 OF 2016**

**RUPESH KUMAR MEENA**

**... Appellant(s)**

**VERSUS**

**UNION OF INDIA & OTHERS**

**... Respondent(s)**

**JUDGMENT**

**Rajesh Bindal, J.**

1. The appellant is an IPS Officer of Tamil Nadu Cadre. He was selected against a vacancy meant for Scheduled Tribe (ST) category. He filed the present appeals challenging the orders<sup>1</sup> passed by the High Court<sup>2</sup>. Vide the order dated 26.08.2011, the High Court upheld the order<sup>3</sup> passed by the Tribunal,<sup>4</sup> by which the application<sup>5</sup> filed by

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<sup>1</sup> Dated 26.08.2011 in W.P.(C) No.6215 of 2011 and 21.10.2011 in Review Petition No.612 of 2011

<sup>2</sup> High of Delhi at New Delhi

<sup>3</sup> Dated 08.03.2011

<sup>4</sup> Central Administrative Tribunal, Principal Bench, Delhi

<sup>5</sup> O.A. No.2326 of 2010

the appellant was dismissed. Subsequently, review petition filed by the appellant was also dismissed by the High Court.

2. Learned counsel for the appellant submitted that one Rishikesh Meena appeared in Civil Services Examination held in the year 2003. As per the merit list, he was selected in the Indian Police Service (IPS) and was allocated West Bengal cadre. He again appeared in 2004 Civil Services Examination and qualified against the vacancy of an IPS Officer. As he was already serving as an IPS Officer, he never chose to join the 2004 batch, as he was to lose one year seniority. In this batch, he was even offered 'insider' vacancy of IPS cadre in the State of Rajasthan, however, he did not accept the same as well.

2.1 Next Officer in the merit list for 'insider' vacancy in the State of Rajasthan for the batch of 2004, was Rajesh Kumar. His claim was that since Rishikesh Meena did not accept the offer for 'insider' vacancy in the State of Rajasthan, he should be offered the same. His claim was rejected by the Union of India. Otherwise, he was originally allocated to Orissa Cadre. Aggrieved against the rejection of his claim for re-allocation, Rajesh Kumar filed O.A. No.102 of 2007 before the Tribunal. The Tribunal vide order dated 02.01.2008 allowed the aforesaid O.A. and directed that 'insider' vacancy in the State of

Rajasthan should be offered to Rajesh Kumar as offer of appointment to Rishikesh Meena had not been accepted by him.

2.2 Aggrieved against the same, Union of India preferred writ petition<sup>6</sup> before the High Court. As during the pendency of the aforesaid writ petition, Rajesh Kumar was selected in the Indian Administrative Service (IAS), he joined as such and his grievance did not survive. The High Court disposed of the writ petition on 14.09.2010, leaving the question of law open.

2.3 The appellant/Rupesh Kumar Meena was third in the merit list for insider vacancy in the Rajasthan cadre in the batch of 2004 examination. The moment the first two candidates chose not to join the Rajasthan cadre, offered on the basis of 'insider' vacancy, the appellant staked his claim to be considered for appointment against the same. He filed OA<sup>7</sup> before the Tribunal, which was dismissed vide order dated 08.03.2011. The High Court upheld the same, vide the order dated 26.08.2011. Even review application was also dismissed vide order dated 21.10.2011. These are the orders impugned before this Court.

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<sup>6</sup> Writ Petition No.5221 of 2008

<sup>7</sup> O.A. No.2326 of 2010

3. The argument raised by the learned counsel for the appellant is that, the stand of the respondents that when the vacancy was offered to Rishikesh Meena, the same stood filled, was wrong. He submitted that, ever since the appellant was appointed to IPS and allocated the Tamil Nadu cadre, he has been serving in that State. The only issue for consideration in the present appeal is regarding his allocation to Rajasthan cadre on 'insider' vacancy for which he has a legitimate right, being eligible and entitled to the same, as two other candidates, senior to him in the merit list, had not joined the Rajasthan cadre against that vacancy. It is not a change of cadre rather merely a correction. The situation became clear only in the year 2010 when despite the Tribunal's order in favour of Rajesh Kumar, he did not join to occupy the 'insider' vacancy in the State of Rajasthan, as he was selected in the IAS cadre, during the pendency of the writ petition filed by the Union of India. Immediately thereafter, the appellant had raised his grievance. There is no delay as such. It was further argued that there are numerous examples wherein similar adjustments were made by the Union of India later on, hence, delay does not matter. He further submitted that the said vacancy is still available, as it was not filled up.

4. In response, learned counsel for the Union of India, submitted that, in the case in hand there is no dispute that the appellant

was rightly allocated Tamil Nadu Cadre after his selection to IPS. There is huge delay in filing of the application (O.A. No.2326 of 2010) by the appellant before the Tribunal. The allocation to a cadre cannot be kept pending for years together for change, in the manner suggested by the appellant. The ‘insider’ vacancy in the State of Rajasthan pertains to the year 2004. For the first time, issue was raised by the appellant in the year 2010. In fact, prior to that, he did not have any right as the person selected and senior to him, namely, Rajesh Kumar, was available and was also litigating for his claim. If the argument of the appellant is accepted at this stage, this will open a pandora’s box. Shifting of appellant from Tamil Nadu cadre to Rajasthan cadre will create a vacancy in the Tamil Nadu cadre for the year 2004. Meaning thereby, reshuffling in the list of the selected candidates in that year. Consequently, someone selected in that year may also claim that, for the vacancy arising on account of the shifting of the appellant from Tamil Nadu to Rajasthan, he may be entitled to Tamil Nadu cadre and so on and so forth. The allocation of cadre will never be final and it will remain fluid for all times to come, leading to a kind of chain reaction.

4.1        He further submitted that the definite stand taken by the Union of India before the Tribunal was that once a selected candidate is allocated to a specific cadre (including on insider vacancy), as in the

case in hand, the vacancy stands consumed. Meaning thereby, when Rishikesh Meena was allocated to 'insider' vacancy in the State of Rajasthan, the same stood consumed. Hence, appellant cannot raise any claim on that post.

4.2 He further submitted that against the order passed by the Tribunal in favour of Rajesh Kumar, the Union of India had filed writ petition and while the matter was sub judice, he got selected to IAS. The High Court while disposing of the writ petition clearly mentioned that the impugned order passed by the Tribunal will not be treated as a precedent and the question of law was kept open. He further submitted that if there is any error in the allocation of cadre, the correction is always done but not in the type of cases the appellant is claiming relief.

5. Heard learned counsel for the parties and perused the paperbook. The arguments in the appeal were heard on 22.01.2026 and the judgement was reserved. Learned counsel for Union of India was permitted to supply copy of the Rules or instructions on the subject on or before 27.01.2026. Nothing has been supplied. The matter cannot be kept pending on that account.

6. The undisputed facts which emerge from the material on record are that the appellant who belonged to ST Category was selected and appointed to IPS in the Combined Civil Services Examination held in the year 2004. As per his merit, he was allocated Tamil Nadu Cadre where he is serving ever since his appointment.

7. Another candidate, namely, Rishikesh Meena, appeared in the 2003 examination. As per his merit, he was appointed to the IPS Cadre and allocated to the State of West Bengal. Being ambitious, Rishikesh Meena appeared in 2004 Civil Services Examination. He again qualified for IPS as per the merit list. As there would not have been any improvement in his status, he did not join against the selection in 2004 Batch. He even did not accept 'insider' vacancy of IPS Cadre in the State of Rajasthan for 2004 Batch.

8. Rajesh Kumar was next in merit after Rishikesh Meena. He staked his claim for appointment against 'insider' vacancy as Rishikesh Meena did not accept the same. His claim was rejected by the Competent Authority. Aggrieved against the same, he filed OA No. 102 of 2007 before the Tribunal. The same was allowed vide order dated 02.01.2008. Rajesh Kumar was directed to be allocated against 'insider' vacancy in the State of Rajasthan. The aforesaid order was challenged

by the Union of India before the High Court. As Rajesh Kumar wanted to progress in his career, he again appeared in Combined Civil Services Examination. During the pendency of the writ petition before the High Court, he was selected to IAS. As a result of which, he was no more interested to join as IPS against 'insider' vacancy in the State of Rajasthan. The writ petition filed by the Union of India before the High Court was disposed of, noticing that the grievance of Rajesh Kumar did not survive any further. However, considering the apprehension of the petitioner before the High Court, it was directed that the order of the Tribunal impugned before the High Court need not be treated as a precedent and the question of law raised therein was left open to be decided in an appropriate case. The aforesaid order was passed on 14.09.2010.

9. By this time, six years had lapsed for the 2004 selection. The appellant who was third in the merit list, claiming to be below Rajesh Kumar and entitled to be offered the 'insider' vacancy in the State of Rajasthan raised his grievance. O.A. was filed before the Tribunal. His submission was that the two persons above him in the merit list, having not joined against the 'insider' vacancy for the year 2004, he should be offered the same. The Tribunal did not find any merit in the O.A. and the same was dismissed, finding that the Ministry of Home Affairs has

not committed any irregularity in allocation of cadres. Even if candidate had not joined, the next one will not have any right to claim allocation to the same post. The earlier order passed in Rajesh Kumar's case was differentiated. Aggrieved against the aforesaid order, the appellant preferred writ petition before the High Court, which met with the same fate.

10. In the aforesaid undisputed factual matrix, the issue before this Court is, as to whether the appellant should now be allowed to change his cadre from Tamil Nadu to Rajasthan, against the 'insider' vacancy. The selection pertains to the year 2004. The appellant is already in service in Tamil Nadu for more than two decades. During the interregnum, there have been more than 20 selections as Combined Civil Services Examination is an annual process as the effort is always to fill up all the vacancies.

11. It is not a case where the allegation of the appellant is regarding any illegality committed by the Ministry of Home Affairs in the allocation of cadres as per the merit position of the appellant in the 2004 Combined Civil Services Examination. His claim is based on the fact that, candidate senior to him having not accepted the 'insider' vacancy of 2004 Batch in the State of Rajasthan, the same should have

been offered to the next candidate. Such a relief having been denied to the next candidate Rajesh Kumar, he raised grievance and succeeded before the Tribunal. However, he having been selected to IAS during the pendency of the writ petition before the High Court, was no more interested against that vacancy. The writ petition was disposed of in the year 2010. It was at this stage that the appellant sought to stake his claim. It was six years down the line as the vacancy pertains to the year 2004.

12. It is not in dispute that the appellant was not the next candidate in the order of merit to be offered the 'insider' vacancy in the State of Rajasthan, in case the first one had not joined. Rather, his case is when the second candidate did not join, he should be offered that vacancy. In our view, such a process cannot be adopted. It will result in the process of allocation or change of cadres fluid for all times to come. The result thereof may be, that after shifting of the appellant from Tamil Nadu to Rajasthan, in terms of the merit list for the 2004 Selection, a candidate below the appellant may claim change of cadre, who otherwise may have been allocated to some other State. This may also have effect on appointment against any 'insider' vacancy. Finality has to be attached to the process of selection. Before us, no material has been produced to show that the aforesaid 'insider' vacancy for the

year 2004 was still lying vacant for the period of more than 20 years that have passed.

13. For the reasons mentioned above, we do not find any merit in the present appeals and same are accordingly dismissed.

14. Pending application(s), if any, shall also stand disposed of.

.....J.  
(RAJESH BINDAL)

.....J.  
(ATUL S. CHANDURKAR)

New Delhi;  
February 4, 2026.