

SUPREME COURT OF INDIA

Union of India (Uoi)

Vs.

Ram Prasad Bansal

(S. R. Babu and Doriaswamy Raju JJ.)

25.09.2001

ORDER

1. This appeal arises out of an order made by the Central Administrative Tribunal, Chandigarh bench at Chandigarh (hereinafter referred to as the 'tribunal').

2. The respondent appeared in Civil Services Examination, 1990 (for short 'the CSE') held in 1990 and he having qualified in the same was allocated to the Indian Revenue Service. On a communication being sent to him about his selection by a telegram, he responded by indicating his intention to join the foundational course. However, he did not join that training but sent a letter stating that he accepts the offer of appointment but he wants to appear in CSE main examination to be held in November, 1992 for which he had already applied. But that course he could not have taken except by stating it clearly that he was not accepting the offer for appointment or having accepted the appointment, he should have resigned from the post in terms of proviso (b) to Rule 4 of the CSE rules. However when the respondent was not permitted to join the duty, he approached the tribunal by an application made before it challenging the constitutional validity of the said rule. By an interim order, he was allowed to take that examination without requiring him to resign from service and also he was given necessary leave to prepare and appear in the said examination. The tribunal took the view that though he had been allocated to IRS on the basis of CSE, 1990, his appointment had not taken effect by his joining the foundational course and there was no question of his resigning from the service and on that basis held that he cannot be compelled to perform something which is impossible namely, the embargo contained in the proviso (b) to Rule 4 to which we have adverted to earlier. The approach of the tribunal in this regard is incorrect. When the respondent was informed of his selection, he indicated that he accepts the offer of appointment but stated he wants to appear for another examination, that course he could not have adopted in the face of the proviso (b) to Rule 4 of the CSE rules. The order made by the tribunal shall stand set aside and this appeal is allowed and the application filed by the respondent before the tribunal is dismissed.