



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**OA/100/1330/2020
MA/100/1663/2020
MA/100/1675/2020**

This the 2nd Day of February, 2021

Through Video Conferencing

**Hon'ble Justice L. Narasimha Reddy, Chairman
Hon'ble Aradhana Johri, Member (A)**

1. Jotiba Tukaram Patil
Age : 59 years, Occupation : Retired as
Additional Collector (Selection Grade),
Resident of Flat No. A/104, The West Wing,
Opp. Audi Showroom,
Near Pune-Bengaluru, National Highway,
Baner, Pune-411 045,
Mahashtra.
2. Sanjay Kumar Narayanrao Dhivre
Age : 58 Years, Occupation : Retired as
Additional Collector (Selection Grade)
Resident of 3, Suyash Building,
Opposite Cambridge Council,
Civil Lines, Nagpur,
Maharashtra.
...Applicants

(By Advocate : Mr. Ravindra Keshavrao Adsure)

Versus

1. Union of India,
Through its Secretary,
Department of Personnel & Training,
Ministry of Personnel, Public Grievances & Pension,
North Block, Central Secretariat,
New Delhi-110 001.
2. Union Public Service Commission,
Through its Secretary,
Dholpur House, Shahajahan Road,
New Delhi – 110 069.



3. Chairman, Selection Committee,
U/R 3 of IAS (Appointment by Promotion)
Regulation, 1955,
i.e., Chairman, Union Public Service Commission,
Dholpur House, Shahajahan Road,
New Delhi – 110 069.
4. Government of Maharashtra,
Through its Additional Chief Secretary (Services)
General Administration Department,
Mantralaya, Mumbai – 400 032, Maharashtra
5. Additional Chief Secretary (Revenue),
Revenue & Forest Department,
Government of Maharashtra,
Mantralaya, Mumbai – 400 032,
Maharashtra.
...Respondents

(By Advocate : Mr. N. D. Kaushik, Mr. Naresh Kaushik
and Mr. Raghav Sharma)

O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman :

The applicants are officers of the State Civil Services (SCS) of Maharashtra and were holding the post of Additional Collector in the year 2018. 25 posts were notified by the DoP&T for promotion to IAS, for the State of Maharashtra, for the year 2018. The notification was issued in this behalf on 08.05.2019. A list of 75 officers of SCS was prepared on 27.02.2020. That includes the names of the applicants herein, i.e. at Sl. No.1A and 26 respectively.

2. Two officers of the same cadre by name, Shyamsundar Liladhar Patil and Pramod Babbarao



Yadav whose names were also included in the list at Sl. No.8 and 14, approached the Hon'ble High Court of Delhi by filing Writ Petition (Civil) No.3203/2020, complaining that the respondents are likely to deny them the selection and promotion since they would be crossing the age limits, stipulated in the relevant rules, even while the selection is being delayed. The Hon'ble High Court passed an order dated 19.05.2020 directing that the mere fact that the applicants crossed the age limit while the selection process is in progress, would not be a ground to deny them promotion, if they are otherwise selected.

3. It is stated that the Selection Committee met on 07.08.2020 and recommended a list of 25 officers, and that the names of the applicants as well as the two other officers, mentioned above, figured therein. The list so prepared was approved by the State Government on 27.08.2020, and by the DoP&T on 28.08.2020. However, in the notification issued by the DoP&T promoting the selected candidates to IAS, in the Maharashtra cadre, the names of the applicants herein did not find place. It is stated that the names were not included on account of the fact that they superannuated on 30.04.2019 and 31.01.2020 respectively. This OA is filed challenging the action of the respondents in not promoting them to IAS



though they have been selected by the Selection Committee.

4. In a way, the applicants draw a parity with the two officers, who too superannuated, by the time the notification was issued. The applicants contend that the action of the respondents amounts discrimination and there was absolutely no basis to deny them the benefit of promotion, once the aspect of age limit or superannuation was ignored in respect of other two officers.

5. On behalf of the respondents, a detailed counter affidavit is filed. According to them, an officer should not have crossed 56 years of age as on 1st January of the year of consideration, and in addition to that he must be holding the post in the service by the time the selection is made. It is stated that though the applicants were selected by the Selection Committee, they could not be promoted in view of the fact that they ceased to be in service, as on the date of notification.

6. We heard Shri Ravindra Keshavrao Adsure, learned counsel for the applicants, Shri N. D. Kaushik, learned counsel for respondent No.1 and Shri Naresh Kaushik, learned counsel for the UPSC.



7. The controversy in this OA is very limited. Rule 8 (3) (a) of IAS Recruitment Rules of 1954 provides for appointment of the officers of the state cadre to IAS by way of promotion. The relevant procedure is stipulated under IAS (Appointment by Promotion) Regulation 1955. For the year 2018, 25 vacancies under this category were identified by the DoP&T. According to the prescribed procedure, a list of officers, three times the number of vacancies is to be considered. In the list of 75 officers prepared in this behalf, the names of the applicants figured at Sl. No.1A and 26 respectively. The Selection Committee met on 09.06.2020 and the names of the applicants figured in the list of selected candidates. That list, in turn, was approved by the State Government on 27.08.2020 and by the DoP&T on 28.08.2020. The issue came only at the stage of final notification. The names of the applicants were not included.

8. It is true that the rules stipulate that an officer should not have crossed 56 years of age as on 1st January of the year of consideration, and must have been in service by the time he is promoted. The applicants did not cross 56 years of age as on 01.01.2018. However, on account of the delay that occurred in the selection



process, it so happened that they retired from service on 30.04.2019 and 31.01.2020 respectively.

9. The applicants did not challenge the relevant rules in this behalf. However, the fact remains that two of their batchmates by name, Shyamsundar Liladhar Patil and Pramod Babbarao Yadav, approached the High Court by filing a writ petition apprehending that their cases may not be considered for promotion on account of superannuation which was impending. The Hon'ble High Court made a clear observation that once they are within the parameters of eligibility by the time, the list was prepared, the mere fact that they attained the age of superannuation in the meanwhile, should not be a factor to deny them promotion. Obviously in compliance with that direction, the respondents included the names of two officers in the notification dated 03.09.2020. The applicants stand on the same footing. The only reason by non inclusion of their names in the final notification list dated 03.09.2020 appears to be that they did not have in their favour, a direction similar to the one in Writ Petition No.3203/2020. However, in matters of this nature, the respondents are required to apply the same parameters to all whether or not they have approached any Court of Law. It was not a relief granted purely personal to the



two officers referred to above. It was on the principle that if a candidate was within the range of selection, when it commenced; the delay in finalization thereof should not defeat their rights. If we apply the same yardstick in the case of the applicants also, they too deserve to be included in the final notification dated 03.09.2020.

10. We, therefore, allow the OA and direct that the names of the applicants shall be included in the final notification of IAS Officers appointed on promotion to the Maharashtra cadre for the year 2018. This shall be done within two weeks from today. We make it clear that the applicants shall not be entitled to any arrears of salary but they shall be accorded seniority duly taking into account, the place of merit, assigned to them by the Selection Committee. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

lg/pj/jyoti/mbt/