

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

**CONTEMPT PETITION NO.170/00112/2019, 00113/2019,
00114/2019, 00115/2019 AND 00116/2019**

IN

**ORIGINAL APPLICATION NO.170/01766/2018, 01764/2018,
01772/2018, 01771/2018 AND 01669/2018**

DATED THIS THE DAY 04TH OF MARCH, 2020

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C V SANKAR, MEMBER (A)

A.M. Yogeesh,
S/o Marisiddegowda,
Aged about 45 years,
Working as Chief Administrative Officer,
Karnataka Rural Infrastructure
Development Limited,
Anandarao Circle,
Bengaluru 560 009
and Residing at No. 1008,
'B' Block, Architta Aithal Aarohi Apartment,
5th Stage, BEML Layout,
Rajarajeshwarinagar,
Bengaluru 560 098

.....Petitioner in CP No. 170/00112/2019

Shri Shivaprasad,
S/o Late M.A. Ramanna,
Aged about 46 years,
Working as Commissioner,
Karnataka Slum Development Board,
Bengaluru 560 020 and
Residing at No. C/87, Ground Floor,
5th Cross, Vasanthnagar,
Bengaluru 560 001

.....Petitioner in CP No. 170/00113/2019

Smt. S. Ramya,
W/o T.C. Krishna,
Aged about 41 years,
Working as Joint Director (Admin),
Agriculture Department,
K.R. Circle, Bengaluru 560 001 and
Residing at No. 466, 9th Cross,
5th Main, NGEF Layout,
Mallathahalli, Bengaluru 560 056

.....Petitioner in CP No. 170/00114/2019

Shri S.N. Balachandra,
S/o S.R. Nanjundegowda,
Aged about 42 years,
Working as General Manager (HR),
Karnataka Power Corporation
Shakthi Bhavan, Race Course Road,
Bengaluru 560 001
And residing at No. 3907, 2nd 'C' Main,
V.B.H.C. Layout, Girinagar IVth Phase,
Bengaluru 560 085

.....Petitioner in CP No. 170/00115/2019

Smt. D. Bharathi,
W/o H.P. Mahadevappa,
Aged about 45 years,
Working as Secretary,
State Election Commission,
Cunningham Road,
Bengaluru 560 052 and
Residing at No. 1925, Shamantha,
1st Floor, 3rd Cross, MCECHS Layout,
2nd Phase, Dr. Shivaramakaranth Nagar,
Jakkur Post, Bengaluru 560 064

.....Petitioner in CP No. 170/00116/2019

(By Advocate M/s Subbarao & Co.)

Vs.

1. Dr. C. Chandramouli,
Secretary to Government,
Department of Personnel & Training,
North Block, New Delhi 110 001

2. Shri Rakesh Kumar Gupta,
Secretary, Union Public Service Commission,
Dholpur House, Shahajahan Road,
New Delhi 110 069

3. Shri T.M. Vijaya Bhaskar, IAS,
Chief Secretary,
Government of Karnataka,
Vidhana Soudha,
Bengaluru 560 001

....Respondents

(By Shri N. Amaresh, Counsel for Respondent No. 1
Shri V.N. Holla, Counsel for Respondent No.2 and
Shri R.B. Sathyanarayana Singh, Counsel for Respondent No. 3)

ORDER
(HON'BLE DR. K.B. SURESH, MEMBER (J))

The Joint Secretary, Union Public Service Commission and the Under Secretary, DoPT had appeared before us and explained the matters and filed a reply. This matter had been pending consideration for several years now though for no fault of the original applicants. They seem to be caught between the fight between two groups of people who trace their selection to the year 1998.

2. An allegation was made, apparently, that some community people were able to acquire more positions than their relative position in the society warranted. This led to one case being filed in the Hon'ble Karnataka Administrative Tribunal but, instead of complying with the requirement of the adjudicator, the Karnataka Public Service Commission refused to hand over the documentations for perusal and inspection. Therefore, the Tribunal took adverse presumption and directed re-evaluation of all the answer scripts. This was challenged in the Hon'ble High Court of Karnataka which chose to accept the procedure followed by the Union Public Service Commission and

pass an order and thereby, through this order of the Hon'ble High Court, a methodology was set and evaluated and 11 people 1) Shri Basavarajendra H, 2) Shri Gopal Krishna HN 3) Dr. Shiva Shankara N 4) Smt Meena Nagaraj CN 5) Shri Akram Pasha 6) Shri Vasantha Kumar P 7) Shri Karee Gowda 8) Shri Shivananda Kapashi 9) Smt Kavitha S. Mannikeri 10) Shri Peddapaiah RS 11) Shri Vrushabendra Murthy GC have been selected in the year 2006. This was taken up to the Hon'ble Apex Court and the Hon'ble Apex Court having held that this selection is correct, appropriate appointments were made even though after 8 years of their original selection.

3. Regretfully, a PIL was filed once again challenging the selection and thereafter repeated evaluations were made and it was therefore decided by the Hon'ble High Court in the second instance that it would set aside all these appointments but gave **all of them leave to approach the Karnataka Administrative Tribunal as they were all, at that point of time, under the aegis of the Karnataka Administrative Tribunal and get individual relief.**

4. Much water had flown under the bridge by this time. Those people became eligible for consideration to the Indian Administrative Service and when their appointments or proposed appointments were challenged before the Hon'ble Apex Court, the Hon'ble Apex Court directed that their selection can be completed but subject to the petition that may be filed against them later on. Thus these people were selected and are there in the list now submitted.

5. Thereafter the Government had taken a decision to implement the said order of the Hon'ble High Court and this decision was challenged by these people in the Central Administrative Tribunal as under Section 14 and 15 of the Administrative Tribunal's Act they were at that point of time under the jurisdiction of the Central Administrative Tribunal. In OA No. 170/00961/2019, we had passed a detailed order in it affirming the right of these people on the grounds stated therein but, as a mark of abundant caution, in view of certain observations apparently made by the Hon'ble High Court in this regard as represented by Shri Narayan Bhat, Advocate at that point of time, sent the matter under reference to the Karnataka Administrative Tribunal which was returned by the said Tribunal on the ground that under the Administrative Tribunal's Act it could not find a provision under which lateral transfers can take place.

6. In the meanwhile, this order was also challenged by some interested persons and the Hon'ble High Court expressed an opinion that if these people were to approach the Karnataka Administrative Tribunal, the Hon'ble High Court would have no objection in the decision of the Karnataka Administrative Tribunal in that regard.

7. Now, it is submitted that these people have approached the Hon'ble Karnataka Administrative Tribunal and had obtained an interim order. Meanwhile, the Government of Karnataka had passed the following order, which we quote:

“GOVERNMENT OF KARNATAKA

No.DPAR 1 SAS 2017

Karnataka Government Secretariat,

Vidhana Soudha,
Bengaluru, dated 11.02.2020

From
The Chief Secretary to Government,
Vidhana Soudha,
Bengaluru-560 001.

Sir,
The Secretary
Union Public Service Commission,
Dholpur House,
Shahajahan Road,
New Delhi-110 001.

Sir,
Subject: Selection Committee Meeting (SCM) to prepare Select List-2016 for promotion of SCS officers to the IAS of Karnataka cadre-reg.

Reference: Your office Letter F.No.6/8/2019-AIS dated 31.01.2020.

Your kind attention is invited to the Commission's letter dated 31.01.2020 wherein the Commission has observed that, it is not clear whether seniority of any other officer included in the eligibility list consisting of 56 officers considered for preparation of Select List of 2015 has been altered consequent upon revision of the seniority list of KAS.

Pursuant to this we wish to bring to the kind notice of the Commission the following facts for better clarity.

- i) The eligibility list for preparation of Select List-2015 consisted of 56 officers. Among the 56, 18 officers from Sl.No.1 to 18 belong to 1998 batch, 17 officers from Sl. No. 19 to 36 belong to 1999 batch, 17 officers from Sl.No.37 to 53 and Sl.No.55 belong to 2004, one officer each belongs to 2007 and 2009 batches. Out of this 56, 34 officers from Sl.No.1 to 33 and 35 were selected in Select List-2015. All eligible officers of 1998 batch have been considered and find place in the Select List of 2015. Apart from the 34 officers selected in the Select List of 2015, the 22 officers who were part of the original eligibility list belong to batches other than 1998 batch and are eligible to be considered for selection. (The list has been abstracted in Annexure-1)

- ii) *The High Court order dated 21.06.2016 has impact only on the 1998 batch. The 22 officers who were part of eligibility list of Select List-2015 and who are listed in eligibility list of Select List -2016 will not be affected by the High Court judgment. Their position in the seniority list of KAS officers will not vary due to revision of seniority in 1998 batch as per High Court judgment. This is because within 1998 batch, in KAS seniority list 11 people will move out and 11 new people will enter and any inter se changes that will happen will be within 1998 bloc itself. The other batches from 1999 onwards will remain in the same seniority in KAS seniority list even after revision.*
- iii) *Revision of Select List – 2015 will not in any way affect the seniority of KAS officers in the eligibility list. It will not in any way reduce the number of vacancies available for Select List-2016 either. If at all, there may be vacancies in the 1998 bloc which might spill over to be filled by subsequent batches.*

In view of the above, it is requested to convene Selection Committee Meeting for Select List-2016 without waiting for convening RSCM for Select List-2015

Yours sincerely,

Sd/-

(G. Shyama Holla)

*Under Secretary to Government,
Department of Personnel and
Administrative Reforms
(Services-5)”*

8. We will approve the stand of the State Government that 2015 list and 2016 list are separate and distinct.

9. The current matter involves 2016. This has nothing to do with the selection for 2015 as it is a different issue after all. Therefore, we hold that we have settled the matter very clearly in K.R. Rudrappa's case where we will quote from the last paragraph of the said order. In the same order we had clearly issued the Hon'ble Supreme Court judgments which had a

bearing on the matter and held in paragraph 6 in OA No. 170/00456/2019 dated 22.08.2019 that:

“6. At this point of time, Shri V.N. Holla, Senior Panel Counsel, speaking on behalf of the UPSC submits that the Select List of 2016 contains only 3 vacancies and for this only 15 people can be considered. Learned counsel Shri Sathyanarayana Singh on behalf of the State Government submits that for 2017 also there are 3 vacancies, so another 15 people can be considered for that also. But then there is no need to wait for the 2017 list to be compiled by now. Let the 2016 list be finished first of all but then the State Government will take steps to initiate steps to complete the 2017 list also as early as possible, in any case, within the next two months.”

10. Unfortunately, unnecessary issues are being raised by holding that there may be clubbing together of vacancies. On earlier occasions also we have clearly stated that the hierarchy in seniority be followed as the 2015 list must precede the 2016 list and that should precede the 2017 list to be considered. Otherwise the candidates will lose the valuable opportunity of consideration.

11. The Hon'ble Apex Court had time and again held that to be considered for a promotion and being able to do so is almost a fundamental right. We reiterate it. We have stated all these in Rudrappa's judgment cited above with clarity.

12. Therefore we discussed the matter with the Joint Secretary of the UPSC and the Under Secretary of the DoPT and the learned counsel Shri V.H. Holla. They submit that all the papers are now ready with them and in a moment's notice they can commence operations. We find that these people have been waiting for years together for their expected promotions. It is

submitted by the State Government that there is a serious paucity of officers in the governance system and they are undergoing problems that is why they are seeking that even the 2017 and 2018 list also may be taken up as immediately as possible, but then for the 2018 list no preparation had been made by the State Government. Therefore, we will not direct the UPSC to consider 2017 and 2018 matters right now but we will direct that 2016 matters of SCS officers will now be finalized within the next 10 days as the whole matrix is available with them. They need to only have a meeting and decide the matter. Therefore, issue a copy of the order to the parties immediately so that it can be immediately complied with and the interest of the people of Karnataka also be protected along with the interest of the applicants.

13. There is no further need to elaborate anymore but the CP will be deemed as closed but with liberty. Notices are discharged. No order as to costs.

(C V SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ksk/

Annexures referred to by the petitioner in CP No.170/00112/2019

Annexure-C1: Copy of the notification dated 27.06.2006
Annexure-C2: Copy of the order dated 21.03.2019 in OA No. 1772/2018
Annexure-C3: Copy of the representation dated 01.08.2019
Annexure-C4: Copy of the representation dated 04.09.2019

Annexures referred to by the petitioner in CP No.170/00113/2019

Annexure-C1: Copy of the notification dated 27.06.2006
Annexure-C2: Copy of the order dated 21.03.2019 in OA No. 1764/2018

Annexures referred to by the petitioner in CP No.170/00114/2019

Annexure-C1: Copy of the notification dated 27.06.2006
Annexure-C2: Copy of the order dated 21.03.2019 in OA No. 1772/2018
Annexure-C3: Copy of the representation dated 19.09.2019

Annexures referred to by the petitioner in CP No.170/00115/2019

Annexure-C1: Copy of the notification dated 27.06.2006
Annexure-C2: Copy of the order dated 21.03.2019 in OA No. 1771/2018

Annexures referred to by the petitioner in CP No.170/00116/2019

Annexure-C1: Copy of the notification dated 27.06.2006
Annexure-C2: Copy of the order dated 21.03.2019 in OA No. 1669/2018
Annexure-C3: Copy of the representation dated 01.08.2019
Annexure-C4: Copy of the representation dated 08.08.2019

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