

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00250/2020

Tuesday, this the 28th day of July, 2020

CORAM:

Hon'ble Mr. P. Madhavan, Judicial Member
Hon'ble Mr. K.V. Eapen, Administrative Member

Suneesh Kumar R., aged 56, S/o. Ramakrishnan V.,
 Superintendent of Police, Vigilance Officer-1, KSEB,
 Vaidyuti Bhavanam, Pattom, (Retired), Thiruvananthapuram,
 Residing at Kaithavarathu House, Panikkerkadavu,
 S.V. Market PO, Karunagapally, Kollam-690 573. **Applicant**

(By Advocate : Mr. P.V. Mohanan)

V e r s u s

1. Union of India, represented by its Secretary,
 Ministry of Home Affairs, North Block,
 New Delhi – 110 001.
2. State of Kerala, Represented by its Chief Secretary,
 Government Secretariat, Thiruvananthapuram – 695 001.
3. The Selection Committee for Selection and appointment of
 Indian Police Service Constituted under Regulation 3 of the IPS
 (Appointment by Promotion) Regulations, 1955, represented by
 its Chairman, Union Public Service Commission, Shajahan Road,
 New Delhi – 110 069.
4. The Director General of Police, (State Police Chief),
 Police Head Quarters, Thiruvananthapuram-
 695 001. **Respondents**

**[By Advocates : Mr. M. Rajeev, GP (R2 & 4) and
 Mr. Thomas Mathew Nellimoottil (R3)]**

This application having been heard on 28.07.2020 through video conferencing, the Tribunal on the same day delivered the following:

O R D E R (Oral)

Hon'ble Mr. P. Madhavan, Judicial Member –

Heard Advocate Mr. P.V. Mohanan appearing for the applicant, Advocate appearing for respondents Nos. 2 & 4 and Advocate Mr. Thomas Mathew Nellimoottil, appearing for respondent No. 3, through video conferencing.

2. The brief facts of the case are that vide Annexure A1 notification 11 vacancies are notified for selection and appointment to IPS (Kerala) cadre on promotion quota for the year 2018. As early as on 17.9.2019, a list of eligible officers for consideration of selection was forwarded by the State Police chief to the Government. However, the State Government have not so far sent the proposals to the Government of India with the service details of the applicant for consideration of selection. Therefore, the applicant prays that appropriate direction may be issued to the effect that the retirement of the applicant from state service on 31.5.2020 shall not dis-entitle him for being considered for selection to IPS for the years, 2018, 2019 and 2020 as well. The applicant filed this OA seeking the following reliefs:

“i. To declare/direct that the retirement of the applicant from the State Police Service on 31.5.2020 on attaining the age of 56 years will not preclude the name of the applicant being considered for selection and appointment to Indian Police Service (Kerala) Cadre on promotion quota against the vacancies determined for the years 2018, 2019 and 2020 as well.

ii. To direct the second respondent to forward proposals to the selection committee including the name of the applicant for selection and appointment to Indian Police Service (Kerala) Cadre on promotion quota for the years 2018, 2019 and 2020 and to direct the Selection Committee to convene the Selection committee meeting by considering the name of the applicant in the zone of consideration and to select the applicant for appointment to Indian Police Service cadre for the respective year.

iii. Any other appropriate order or direction as this Hon'ble Tribunal deem fit in the interest of justice."

3. When the matter came up for consideration today, learned counsel appearing for respondent No. 3 submitted that the applicant is not entitled to be considered for the year 2020 because he has already retired from service.

4. On the other hand learned counsel for the applicant put forward a claim that although the applicant is entitled to be considered for the years 2018 and 2019, he submits that he is also entitled to be considered for the year 2020 as he was in service on 1st January, 2020 as per regulation 5(2) of Indian Police Service (Appointment by Promotion) Regulations, 1955. In support of the above contention, learned counsel for the applicant has relied on the judgment of the Punjab and Haryana High Court in CWP No. 15798 of 2009 – ***Parveen Kumar v. Union Public Service Commission & Ors.***, dated 1.2.2010 wherein it was held that the age of 54 years is required to be determined on January 1st of the year for which the select list is prepared.

5. Learned counsel for respondent No. 3 submitted that they have no objection in considering the case of the applicant for the years 2018 and 2019 and that the retirement of the applicant will not stand in the way of his consideration.

6. **In view of the limited relief sought, without going into the merits of the case, we direct that the retirement of the applicant from State Service will not be a bar for considering his promotion to the IPS cadre**

in the vacancies of 2018, 2019 and 2020, if he is eligible otherwise as per rules and regulations existing.

7. The Original Application is disposed of as above at the admission stage itself. No order as to costs.

**(K.V. EAPEN)
ADMINISTRATIVE MEMBER**

**(P. MADHAVAN)
JUDICIAL MEMBER**

“SA”

Original Application No. 180/00250/2020**APPLICANT'S ANNEXURES**

Annexure A1 – True copy of the proceedings F. No. - 14011/03/2020-IPS-I, dated 10.1.2020.

Annexure A2 – True copy of the letter No. A1-75425/2019/PHQ dated 17.9.2019.

Annexure A3 – True copy of the interim order in OA No. 789/2019 dated 27.11.2019.

Annexure A4 – True copy of the order in OA No. 789/2019 dated 7.1.2020 by this Hon'ble Tribunal.

RESPONDENTS' ANNEXURES

Nil

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