

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00633/2015

Thursday, this the 21st day of January, 2021

C O R A M :

HON'BLE Mr.P.MADHAVAN, JUDICIAL MEMBER

HON'BLE Mr.K.V.EAPEN, ADMINISTRATIVE MEMBER

Suresh Kumar G (Retired SP)

Aged 56years

S/o.G.Gopalan Achary

Residing at Gowreenandanam, Alattukavu Nagar

#207 C, Vallikkeezhu, Kavanadu P.O, Kollam-691003

...Applicant

(By Advocate Mr.Manuvilsan.C.V)

v e r s u s

1. Union of India Represented by its Cabinet Secretary
Government of India, New Delhi – 110 001
2. The Secretary, Department of Home Affairs
Government of India, North Block
New Delhi – 110 001
3. The Secretary, Ministry of Personnel, Public Grievances and Pension
Department of Personnel & Training, New Delhi -110 001
4. The Director, Department of Personnel & Training,
New Delhi – 110 001
5. The State of Kerala, represented by the Chief Secretary to Government
Government Secretariat, Thiruvananthapuram – 695 033
6. The Director General of Police and State Police Chief
Police Head Quarters, Vazhuthacaud, Thiruvananthapuram – 695 033

7. The Union Public Service Commission
represented by its Secretary, New Delhi – 110 001Respondents

(By Advocate : Mr.S.R.K.Prathap,ACGSC for R 1-4, Mr.Thomas Mathew
Nellimoottil,Sr.PCGC for R 7, Mr.M.Rajeev, G.P for R 5&6)

This application having been heard on 21.1.2021, this Tribunal on the same day delivered the following :

ORDER (ORAL)

HON'BLE Mr.P.MADHAVAN, JUDICIAL MEMBER

This is an Original Application filed seeking the following relief:

"i. Declare that the applicant is eligible to be included in the zone of consideration and selt list of State Police Officers of Kerala, for promotion to IPS (by promotion) for the years 2014, by the Select Committee;

ii. Quash Annexure A2 order passed by the 4th respondent as illegal, irrational and procedurally improper.

iii. Direct the 6th respondent or any other concerned, to consider the applicant also in the zone of consideration of Selection to the IPS Cadre (Appointment by Promotion) and proceed with his selection procedure, as per law, as if he is in service, irrespective of the consideration that applicant was retired from service on attaining superannuation on 31.12.2014.

iv. Delcare that the Rule 9(2) of the Indian Police Service (Recruitment) Rules, 1954 is unconstitutional and violative of Article 14 of the Constitution of India.

v. Declare and direct that the Selection to the IPS (Appointment by Promotion) from 2010 onwards shall be conducted by adopting a procedure as either through a one time

absorption of persons with long time experience in basic policing, especially with minimum of 25 years of service, by giving a relaxation to the restrictions inserted in Regulations 5(2) and 5(3) of the IPS (Appointment by Promotion) Regulation, 1955 and Rule 9(2) of the Indian Police Service (Recruitment) Rules, 1954; OR through adopting the newly approved method that has been introduced after changing the earlier one, i.e, a method of induction of State Service Officers to the All India Services, after conducting a Written Examination, Interview, Analysis of CR and Length of Service, as mentioned in the DO letter No.4/22/2012-AIS, New Delhi, dated 15th march, 2013 issued by the 6th respondent.

vi. direct the 6th respondent or any other concerned, to consider the applicant also in the zone of consideration of selection to the IPS Cadre (Appointment by Promotion) and proceed with his selection procedure, as per law, as if he is in service, irrespective of the consideration that applicant was retired from service on superannuation on 31.12.2014.

vii. Exclude all the illegal entrants in the IPS cadre from 2005 onwards, who were of doubtful integrity and involved in criminal cases in view of Para 4 of the Government of Kerala in GO(Rt) No.2418/2013/Home dated 31.8.2013, Annexure A15 order of the Division Bench of the Hon'ble High Court of Kerala in W.P(C) No.11777/2011, the dictum of the Hon'ble Supreme Court of India in the matter of Commissioner of Police v. Mehar Singh reported in 2013 (3) KLT SN 53 (SC), etc

viii. Direct the 3rd respondent to consider and dispose of Annexure A2 representation, by affording a reasonable opportunity of being heard the applicant or his authorised representatives, without any further delay.

ix. Award costs of and incidental to this application Tribunal may deem fit in the interest of justice and equity.

x. To pass such any other orders or reliefs as this Hon'ble Tribunal, may deem fit in the interest of justice, equity and good conscience. ."

2. When the matter came up earlier, the counsel for the applicant and respondents submitted that WP(Civil) No.119/2016, W.P(C) No.327/2015, W.P(C) No.443/2015, W.P(C) No.721/2015, W.P(C) No.770/2015 and W.P(Civil) No.193/15 in a similar matter are pending before the Hon'ble Apex Court and law will attain finality only when the Apex Court decides the case.

3. Today, when the matter was taken up, it was submitted that the Hon'ble Apex Court has dismissed the W.P(Civil) No.119/2016, W.P(C) No.327/2015, W.P(C) No.443/2015, W.P(C) No.721/2015, W.P(C) No.770/2015 and W.P(Civil) No.193/15 on 6.4.2017 and there is no purpose in continuing with this Original Application.

4. In view of the submission made and in view of the order of the Apex Court, nothing survives and hence the Original Application is dismissed. No costs.

(K.V.EAPEN)
ADMINISTRATIVE MEMBER
sv

(P.MADHAVAN)
JUDICIAL MEMBER

List of Annexures

Annexure A1 - A true photocopy of the Notification dated 17.3.2015 issued by the Government of India

Annexure A2 - A true photocopy of the office memorandum Numbered as F.No.14015/30/2015-AIS-I dated 20.3.2015 issued by the 4th respondent Director

Annexure A3 - True copy of the order dated 10.10.2012 in O.A No.820 of 2012 delivered by this Hon'ble Tribunal

Annexure A4 - A true copy of the letter No.A1/75898/2010 dated 21.8.2010 issued by the DGP to the Chief Secretary of Kerala

Annexure A5 - True copy of the letter No;.A1/75898/2010 dated 8.2.2011 issued by the DGP to the Chief Secretary of Kerala

Annexure A6 - A true photocopy of the Letter No.114/Spl.C2/2011/GAD dated 5.3.2011, along with letter 8.10.2010 issued by the Chief Secretary of kerala to the Union of India

Annexure A7 - A true photocopy of the representation dated 29.12.14 submitted by the applicant before the 3rd respondent

Annexure A8 - A true photocpy of the letter No.14015/33/2009-AIS(I) dated 7.5.2013, issued by the Under Secretary, Department of Personnel and Training, Government of India

Annexure A9 - A true photocopy of the Draft copy of the Indian Police Service (Appointment by Induction) Regulations, 2013

Annexure A10 - A true photocopy of the judgment of the Division Bench of the Hon'ble High Court of kerala dated 21.6.2011 in W.P(C) No.11777/11 and connected cases

Annexure A11 - A true photocopy of the Counter Affidavit filed by the Union of India in O.A No.1212/2012

Annexure R5(a) - Notification dated 17.3.2015 of DoPT , Government of India

Annexure R5(b) - Office Memorandum F.No.14015/30/2015-AIS-I dated 20.3.2015 of DoPT , Government of India.

. . .