

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH:: HYDERABAD**

OA/21/1418/2014

**Date of CAV : 17.12.2020
Date of Pronouncement: 07.01.2021**



**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**

P. Ramgopal Rao, S/o. P. Narasinga Rao,
Aged about 55 years,
Occ: Presently working as Inspecting Officer,
G.A.D (Official Language),
Telangana Secretariat, Hyderabad.

(By Advocate : Sri D. Linga Rao)

...Applicant

Vs.

1. The State of Andhra Pradesh rep. its Chief Secretary to Government, Secretariat, Hyderabad.
2. The State of Telangana rep. by its Chief Secretary, Revenue Department, Secretariat, Hyderabad.
3. The Government of Andhra Pradesh rep. by its Principal Secretary to Government, Revenue Department, Secretariat, Hyderabad.
4. The Government of Telangana rep. by its Principal Secretary to Government, Revenue Department, Secretariat, Hyderabad.
5. The Union Public Service Commission rep. by its Secretary, Dholpur House, Shahjahan Road, New Delhi.
6. The Union of India rep. by its Secretary (Personnel), Department of Personnel and Training, Government of India, North Block, New Delhi.

....Respondents

(By Advocate : Smt K. Rajitha, Sr. CGSC

Sri K. Ajay Kumar representing Sri B.N. Sharma SC for
UPSC, Sri M. Bal Raj, Govt. Pleader for A.P.
Sri P. Raveender Reddy, SC for T.S.)

ORDER
(As per Hon'ble Mr. B.V. Sudhakar, Admn. Member)

Through Video Conferencing:



2. The OA is filed aggrieved with the action of the respondents in not considering the applicant for appointment to Indian Administrative Service (IAS) under physical challenged quota.
3. Brief facts of the case are that the applicant working as Dy. Collector since 25.02.2003, claims that he became eligible to be considered for appointment to IAS in 2012-2013 on completion of 8 years of service in the relevant cadre. Applicant represented on 28.11.2012 stating that he is eligible for reservation as per GO Ms. No. 42, dt.19.10.2011 issued in respect of Physically challenged. Despite the representation, there being no fruitful result, the OA is filed.
4. The contentions of the applicant are that he is eligible for appointment to IAS for having rendered 8 years service as Dy. Collector and that he is also entitled for reservation as a physically challenged individual as per GO Ms.42, dt.19.10.2011. In an identical case, Tribunal granted relief in OA 1552/2013 on 1.10.2014. Applicant was falsely implicated in CC No.3/2011 & CC No.14/2012. On approaching the Hon'ble High Court of Andhra Pradesh, stay of the proceedings in CC No. 3/2011 was ordered on 19.09.2013. During the pendency of criminal proceedings, there is no bar to consider the appointment to IAS, as per a

catena of judgments of the Hon'ble Supreme Court. The right to be considered for promotion is a Fundamental Right guaranteed under Article 16 of the Constitution. It is the responsibility of the respondents to consider the candidature of the applicant in view of the stay of the proceedings in CC No. 3/2011 by the Hon'ble High Court vide its order dt. 19.09.2013 in Crl. R.C.M.P. No. 2976/2013 in Crl. R.C. No. 1940/2013.



5. The respondents, per contra, state that there is no provision of reservation under IAS (Recruitment) Rules, 1954, IAS (Appointment by Promotion) Regulations, 1955 and IAS (Appointment by Selection) Regulations 1997. The cadre controlling officer in respect of State Civil Services has not recommended the applicant's name as an eligible candidate for the years 2011 & 2012. Further, the Tribunal order in OA No.1552/2013 has been stayed by the Hon'ble High Court in WPMP No. 42860/2014 in WP No. 34273/2014, on 22.1.2015. DOPT Memo dt. 29.12.2005 speaks about reservation in Group A/ B posts, but not about reservation for selection/ appointment to IAS to the physically challenged. For IAS, cadre controlling authority is the Central Govt.

6. Heard the counsel and perused the pleadings on record.

7(I) Applicant is seeking appointment to IAS claiming that he has rendered 8 years service as Dy. Collector since 2003 and hence eligible to be considered for the panel years 2011 & 2012. He also claims that being physically challenged, GO Ms. No. 42, dt.19.10.2011 applies to his case.

II. As seen from the facts of the case, it is not under dispute that the applicant has rendered 8 years of service as Dy. Collector by 2011 & 2012. Applicant is involved in two criminal cases viz., CC No.3/2011 and CC No.14/2012 filed against him by the ACB. Hon'ble High Court has stayed the proceedings in CC No.3/2011 vide order dt.19.09.2013. There is no stay in CC No.14/2012 as per facts on record. The State Cadre Controlling authority for the applicant is the Chief Commissioner of Land Administration, who has not recommended the candidature of the applicant for appointment to IAS for the relevant years. Applicant contends that as per Regulation 5 of IAS (Appointment by Promotion) Regulations, he is eligible to be considered. However, rule 5 states that the Selection Committee shall prepare the list of officers from the State Civil Service suitable to be promoted. In respect of the applicant, the cadre controlling authority has not recommended his case. Therefore, Rule 5 has not been satisfied to consider the candidature of the applicant. Further, the said rule speaks of the issue of integrity certificate by the State Govt. Neither in the OA nor the reply statement, there is mention about the issue/ withholding of integrity certificate by the State Govt. and if so, the reasons.

III. Besides, the order of this Tribunal in OA 1552/2013 has been kept in abeyance by the Hon'ble High Court in WPMP No. 42860/2014 in WP No.34273/2014 on 22.1.2015. Therefore, the applicant cannot rely on the decision in the cited OA. We observe that the 1st respondent has stated that the applicant has not been recommended by the State cadre controlling officer without indicating the grounds on which he was rejected.

IV. In addition, learned counsel for the DOPT i.e. 6th respondent has submitted that the applicant is involved in serious cases of corruption resulting in filing of 2 criminal cases against him by ACB. One has been stayed by the Hon'ble High Court and the other is pending adjudication.



The State Govt. has not recommended the case of the applicant for consideration. Therefore, there is no necessity to file a reply by DOPT, since no decision has been taken by them. The learned respondents counsel further submitted that the applicant retired from service and therefore, he is not at all eligible for promotion at this distant date.

V. In regard to reservation in promotion for the physically handicapped to AIS posts, respondents have stated that the rules applicable do not have a provision for reservation for the physically challenged. However, in regard to reservation for Group A posts, the matter has been adjudicated by the Hon'ble Supreme Court in Civil Appeal No. 1567 of 2017 between Siddarajau v. State of Karnataka & Ors. Respondents need to clarify about the reservation aspect for AIS by consulting Law Ministry of the Govt. of India.

VI. Lastly, it is evident from the details of the case, that the applicant has retired from service. Promotion or appointment is based on suitability. Applicant claims that pending criminal cases would not come in the way of his appointment into IAS. The reply statement is devoid of replies in respect of the above contention and why he was not recommended by the State cadre controlling authority to IAS. Reference to ACRs and his ratings

over the years, have not been indicated. Therefore, it would be fair and proper to let know the applicant of the grounds for rejecting his appointment to IAS. Hence, we direct the 1st respondent to issue a speaking and reasoned order about the relief sought by the applicant and the decision taken thereupon based on relevant rules and law, covering the entire ambit of the case, if need be, by consulting DOPT/Law Ministry. As the decision calls for consultation, 7 months time is granted to implement the direction, from the date of receipt of this order.



With the above direction, the OA is disposed of, with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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