

Central Administrative Tribunal
Principal Bench: New Delhi

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OA No.2885/92

New Delhi this the 1st day of January 1996.

Hon'ble Sh.N.V.Krishnan, Acting Chairman
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Zile Singh Saroha
House No.274, Subhash Nagar
Model Town, Rohtak
Rohtak (Haryana)

...Applicant.

Versus

1. Union of India through
Secretary (Homes)
Ministry of Home Affairs
New Delhi.
2. State of Haryana through Secretary
Homes, Govt. of Haryana, Chandigarh.
3. Director General of Police
Haryana, Chandigarh.
4. Union Public Service Commission
through its Chairman
Dholpur House, New Delhi.

...Respondents

ORDER (Oral)

Hon'ble Sh.N.V.Krishnan, Acting Chairman

None for the parties though called twice. The applicant is a State Police Officer of Haryana. His grievance is that though he has been approved by the UPSC for appointment to the Indian Police Service (IPS), such appointment has not been made. Hence he has claimed the following reliefs:

- a) that a proper writ, direction or order may be issued to the respondents declaring the petitioner to be entitled to all the benefits of IPS post to which he has been found eligible and which has already been approved by the UPSC.
- b) that the applicant may be given all the benefits which have been accorded to his other colleagues as named hereinabove whose names were cleared by the UPSC and who have been conferred benefits thereto and

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all the benefits should be made applicable to him from the date when the same were given to other similarly situated officers;

- c) that the order of suspension dated 10.7.91 (Annexure-P2) may be ordered to be set aside.;
- d) that any other writ, order or direction which this Hon'ble Tribunal deems fit under the circumstances may also be granted.

In so far as the relief at item (c) is concerned, namely against the order of suspension, it was noticed on 15.12.1993, the applicant had filed a separate OA No.3303 of 1992 against the order of suspension. Under the circumstances, this OA was admitted only in respect of the reliefs sought in item (a) & (b) reproduced above.

2. These grievances have arisen under circumstances which have been better explained in the reply of the respondents.

3. Admittedly, the applicant being a State Police Officer, is entitled to be considered for appointment to the IPS, in accordance with the relevant statutory regulations which have been framed under All India Service Act. It is stated in the reply of the respondents that the name of the applicant, alongwith other eligible officers, was considered for inclusion in the select list for the year 1990-91 by the Selection Committee, the meeting of which was held on 25.3.91. The Selection Committee placed nine names in the list, the name of the applicant being at the bottom. This was approved by the UPSC and thereafter appointments were being made from the select list.

4. It is stated that there were eight vacancies. However, by an interim order dated 3.4.91 of the CAT, Chandigarh Bench in OA No.388/HR/91-Shri Suraj Pal Vs. Union of India, one vacancy was directed to be kept vacant and subsequently directions were given by the Tribunal that any promotion made to the applicant would be subject

to the outcome of that OA.

5. Accordingly, seven vacancies were clearly filled up by the first seven officers in the select list. The eighth officer in the Select List Sh. Dharam Pal was also appointed to the IPS provisionally subject to the final outcome of the OA referred to above.

6. Meanwhile, one more vacancy also became available on 30.11.91 on the retirement of Sh. Man Singh. However, by order dated 28.10.91 of the Punjab & Haryana High Court in the Civil Writ Petition filed by Sh. Rishi Prakash, the name of that official had to be considered. Accordingly, the name of that officer was included in the Select List for the years 1988 and 1989-90. His name was included in that list and he was appointed to the IPS by notification dated 29.9.92 with retrospective effect from 22.1.91 i.e. the date from which other officers in the Select List for the year 1990-91 were appointed. Thus the respondents state that no vacancy was available for appointment of the applicant and none junior to the applicant in the select list was appointed.

7. It is stated that subsequently i.e. after the meeting of the selection committee which was held on 25.3.91, the applicant was placed under suspension by the order of the second respondent - Govt. of Haryana and on the date of the filing the reply, it is stated that the case was under investigation. In addition, disciplinary proceedings were initiated against the applicant by the second respondent vide memo dated 17.5.91 in respect of irregularities in the bye-election of the Meham Assembly Constituency. The respondents, however, state that irrespective of these considerations, no vacancy was available against which the applicant could be considered for appointment on account of

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inclusion of his name in the select list for the year 1990-91.

8. The appointment of the person immediately senior to the applicant in the select list, Sh. Dharam Pal, is stated to be still on provisional basis for reasons mentioned above. The select list prepared for the year 1991-92 was prepared by holding a meeting of the committee on 6.3.92. That list was approved by the UPSC on 22.1.93. Five names have been included in the list. The name of the applicant is shown as provisional in view of the pendency of the departmental enquiry against him. In terms of Regulation 9 of the Indian Police Service (Appointment by promotion) Regulations, 1955, until the inclusion of the name of the applicant in the select list is made unconditional, the mere inclusion of his name will not entitle him to appointment in the service. A meeting of the Select Committee to prepare the select list for 1992-93 had been held on 30.3.93.

9. In the circumstances, the respondents have stated that the applicant is not entitled to any relief prayed for in the OA.

10. We have carefully considered the pleadings in this case as none is present before us to argue on either side. The applicant has filed a rejoinder in which he has not been able to counter any of the averments made by the respondents in their reply which we have summarised above and which have bearing on this case. His main ground is that the suspension and the disciplinary enquiry are connected with an enquiry being held probably under the Commission of Enquiry ^u Act headed by Justice Sh.K.N.Saikia. He states that the proceedings under this Commission of Enquiry will be ^a long drawn out ^u and one does not know when it will ^u come to a conclusion.

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11. We are not impressed by this argument. The only two prayers made in this OA are (a) declaring the petitioner to be entitled to all the benefits of the IPS post to which he has been found eligible and which has already been approved by the UPSC (b) that he be given all the benefits which have been accorded to his other colleagues whose names are mentioned by him in para 4.10 of the OA.

12. The only year in which the name of the applicant was included unconditionally in the select list is in respect of the year 1990-91. His name was placed on the last position at Sl.No.9, as mentioned in the respondents' reply. It was possible for them to fill up 7 out of 8 vacancies unconditionally. The 8th vacancy was filled up conditionally subject to the outcome of the OA pending before the Chandigarh Bench of the Tribunal wherein an interim direction was given that the appointment made would be subject to the outcome of that OA. Accordingly the eighth person in the select list Sh.Dharam Pal was appointed.

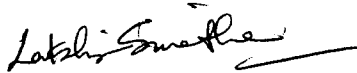
13. One more vacancy arose on 30.11.91. If there has nothing more to it, his senior Dharam Pal's appointment would have been made regular and the applicant appointed to this vacancy provisionally, subject to the outcome of the OA pending before the Chandigarh Bench. However, in respect of that vacancy, certain orders of Punjab & Haryana High Court were complied with and accordingly the benefit of that judgement went to Rsihi Prakash who was appointed to the IPS.

14. Even after perusing the reply, the applicant has not cared to amend his OA seeking appointment to the 8th or 9th vacancy if he thought that he had a better claim to those vacancies. In the circumstances, we are of the view that the applicant was not entitled to be appointed to any of the vacancies/arose upto 30.11.1991.

[Signature]

15. In 1991-92, the applicant's name was included in the Select List purely on provisional basis. His case, therefore, would be dealt with only under Regulation 9 of the IPS (Appointment by promotion) Regulation which requires specifically for a declaration that the inclusion of his name has been made unconditional. That would be possible only if he is cleared in the case in which he is suspended and the case in which disciplinary proceeding has been initiated. As such is not the situation, he is not entitled to any relief on the basis of the select list of the year 1991-92. The OA has been filed on 2nd September 1992 and therefore, there is no need to consider what happened to him subsequently. The respondents have merely stated that a meeting of the Select Committee took place on 30.3.93 to draw a select list for the year 1992-93.

16. In this view of the matter, we find that the applicant has not made out any case for issuing any directions to the respondents. Accordingly, the OA is dismissed.



(Lakshmi Swaminathan)
Member (J)



(N.V. Krishnan)
Acting Chairman