

**CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH AT BANGALORE**

**CONTEMPT PETITION NO.170/00019/2020**

**IN**

**OA NO.170/00883-884/2017**

**DATED THIS THE 04<sup>th</sup> DAY OF MARCH, 2020**

**HON'BLE DR K B SURESH.....MEMBER (J)  
HON'BLE SHRI C V SANKAR .....MEMBER (A)**

Dr.A.Lokesha,  
S/o Areningappa,  
Aged about 51 years,  
Working as Officer on Special Duty  
To Chief Minister,  
Vidhana Soudha,  
Bangalore-560 001.

...Petitioner

(By Advocate M S Bhagawat)

**Vs.**

1. Sri.C.Chandramouli, IAS  
Major,  
Secretary,  
Department of Personnel and Training,  
Ministry of Personnel, Public Grievances and Pension,  
Union of India, North Block, Central Secretariat,  
Sardar Patel Bhavan, Parliament Street,  
Sansad Marg, New Delhi-110 001.

2. Sri.Rakesh Kumar Gupta, IAS,  
Major,  
Secretary,  
Union Public Service Commission,  
Dholpur House, Shahjahan Road,  
New Delhi-110 069.

3. Smt.P.Hemalatha, IAS,  
Major,  
Secretary,  
Department of Personnel and Administrative Reforms,  
State of Karnataka,  
Vidhana Soudha, Bangalore-560 001.

...Respondents

(By Shri.J.Bhaskar Reddy, Counsel for R1, Shri.V.N.Holla, Counsel for R2 &  
Shri.Sathyanarayana Singh, Counsel for R3)



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

These and the other connected matters were taken up today. The matter involves the selection of officers in the Non-State Civil Service (Non-SCS) to the Indian Administrative Service under the extant rules. We had disposed of the OA No.883-884/2017 on 09.02.2018 and two years have now elapsed. We had held in great detail in our order why it is necessary for the State of Karnataka to be vigilant in recommending appropriate names for promotion into the IAS and for other constitutional authorities to take utmost concern in it less it violates the greater public interest. The tenets we have raised in that may be read as part of this order also. In fact, we had found that there is no negative role on the part of any of the applicant for this delay. Reference may be had to paras 43 to 46 of the above said judgments. This is particularly valid as in Amrutha Lakshmi's case, Sham Bhat's case and Hemaraj Singh's case, the rationale of the Hon'ble Apex Court judgment and which the UPSC admitted at that stage is another regulation that each year the selection has to be completed within that year itself but unfortunately even after our order, two years have already elapsed.

2. Union Public Service Commission had taken up the matter in Writ Petition No.11077/2018 & 26123/2018 and had been disposed of by Hon'ble High Court vide its order dated 14.09.2018 which may also be considered as part of this order.

3. After considering the legal situation in great detail, the Hon'ble High Court held that



1) No act of court shall prejudice now

2) Petitioner (UPSC) cannot act in a casual manner and shirk its responsibility to the detriment of the career prospects of eligible candidates and such legitimate expectation cannot be denied (Paragraph 15)

4. Therefore, Union Public Service Commission had taken up the matter before Hon'ble Apex Court in SLP No.30123-30124/2018 which was disposed of vide order dated 14.09.2018 finding that there is no reason to entertain these SLPs. Therefore the matter has now become final. But yet another issue has now been taken up, it is the letter issued by the Government of Karnataka, No.DPAR 2 SAS 2017 dated 14.11.2019, which we quote in full:

**GOVERNMENT OF KARNATAKA**

No.DPAR 2 SAS 2017

Karnataka Government Secretariat  
Vidhana Soudha,  
Bengaluru, dated 14.11.2019

From:

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

To:

The Secretary,  
Union Public Service Commission,  
Dholpur House, Shahjahan Road,  
New Delhi-110 069.

{Kind Attn: Shri.G.C Saha, Under Secretary to Government of India (AIS)}

Sir,

Sub: Convening of Selection Committee Meeting for preparation of Select List of 2016 under Non-SCS category-reg.

Ref: Letter No.F.No.6/8(1)/2017-AIS, dated 22.10.2019.

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*I am directed to invite your attention to the above reference and state that the below mentioned officers are to be considered for preparation of Select List 2016 for selection to IAS under Non-SCS category.*

Sl. No.	Name (Shri/smt)
1.	B.G.Gurupadaswamy
2.	Dr.K.N.Vijayaprakash
3.	Anil Kumar
4.	Dr.Srinivas N
5.	T.Venugopal Reddy
6.	P.Kumar
7.	C.P.Narayana Swamy
8.	V.Govindaraj
9.	Deepak Doreyawar
10.	K.N.Gangadhar
11.	Dr.M.R.Ekanthappa
12.	J.Gnanendra Kumar
13.	A.Lokesha
14.	R.Ramesh
15.	Dr.Y.Manjunath

*Further, I am also directed to state that fresh integrity certificates and updated information relating to disciplinary proceedings, criminal proceedings, penalty and adverse remarks in respect of above officers and comments on the representation of Shri.K.R.Rajakumar will be forwarded shortly.*

*Yours sincerely,*

*Sd/-  
(Shakuntala Chougala)  
Under Secretary to Government  
DP&AR (Service-I)  
Phone:080-2203337*

5. One reason for objection raised by the UPSC is that in fact first among the candidate Shri.G.B.Gurupadaswamy has already attained the rank of a Government Secretary in a normal course by efflux of time. And therefore if he is now to be inducted in the IAS, he will have to come to a lower level. It appears that he had therefore declined to be considered. We leave this question open because he had not been heard on this question by us. But apparently all the others submit that this is correct, therefore since there are three vacancies available and one



more can be accommodated, Government sent the name of one Shri.H.R.Rajappa forwarded vide letter dated 16.12.2019 which we quote;

**GOVERNMENT OF KARNATAKA**

No.DPAR 2 SAS 2017

Karnataka Government Secretariat,  
VidhanaSoudha,  
Bengaluru, dated: 16.12.2019

**From:**

The Chief Secretary to Government,  
Government of Karnataka,  
VidhanaSoudha,  
**BENGALURU – 560 001.**

**To:**

The Secretary,  
Union Public Service Commission,  
Dholpur House, Shahjahan Road,  
**NEW DELHI- 110 069.**

{Kind Attn: Shri G C Saha, Under Secretary (AIS)}

Sir,

Sub: Forwarding the proposal of Shri H R Rajappa, for consideration to IAS under Non-SCS category for the Select List 2016.

Ref: State Government letter of even number dated: 14.11.2019.

I am directed to invite your attention to the letter dated: 14.11.2019 referred above wherein the State Government had sent the List of Officers to be considered for preparation of Select List 2016 for selection to IAS under Non-SCS category.

However, Shri B.G.Gurupadaswamy, in his representation dated: 29.11.2019 has withdrawn his candidature. Hence, the State Government has decided to propose the name of Shri H R Rajappa in lieu of Shri B G Gurupadaswamy.

In view of the above the proposal of Shri H R Rajappa is forwarded herewith for consideration to IAS under Non-SCS category for the Select List 2016, and for further necessary action. The same may kindly be acknowledged.

Yours faithfully,

Sd/-

(G. ShyamaHolla)

Under Secretary to Government

DP & AR (Services-I)

Phone: 080 22033337, Fax: 080 22356197

Email id: [ussl.dparservices@gmail.com](mailto:ussl.dparservices@gmail.com)

**Copy to:**

The Secretary to Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, North Block, New Delhi- 110 001.

{Kind Attention: Shri PankajGangwar, Under Secretary to Government of India (AIS)}



6. To this letter the Union Public Service Commission sent a reply on 31.12.2019 indicating that the new addition of Shri.H.R.Rajappa is not correct as it has not come through the regular procedure at the appropriate time and therefore he may not be eligible to be considered. We quote from this letter:

*F.No.6/8(1)/2017-AIS*  
**UNION PUBLIC SERVICE COMMISSION**  
*DHOLPUR HOUSE, SHAHJAHAN ROAD, NEW DELHI-110 069*

To

*Dated: 31<sup>st</sup> December, 2019*

*The Chief Secretary,  
Government of Karnataka,  
Bengaluru.*

*[Kind Attn: Ms.G.Shyama Holla, Under Secretary, DP&AR (S-1)]*

*Sub: Convening of Selection Committee Meeting for preparation of Select List of 2016 for selection of Non-SCS Officers for appointment to the IAS of Karnataka Cadre in compliance of Order dated 09.02.2018 of the Hon'ble CAT, Bangalore Bench in OA No.170/00883-884/2017 filed by Dr.A.Lokesh & Anr as affirmed by the Hon'ble High Court of Karnataka vide order dated 14.09.2018 and by the Hon'ble Supreme Court vide order dated 14.12.2018.*

Sir,

*I am directed to refer to the State Government letter dated 16.12.2019 wherein it has been intimated that Shri.B.G.Gurupadaswamy whose name was forwarded in the list of 15 officers for consideration for preparation of Select List of 2016 for selection of Non-SCS officers for appointment to IAS of Karnataka Cadre submitted vide letter dated 14.11.2019 has withdrawn his candidature. The State Government has also proposed the name of Shri.H.R.Rajappa for consideration for the Select List of 2016 in lieu of Shri.B.G.Gurupadaswamy.*

2. *It is observed from the proceedings of the State Screening Committee meeting that for receipt of recommendations in the Deptt. Of personnel & AR from various Departments of the State Governments regarding Non-SCS officers for consideration for selection to IAS for Select list of 2016, the last date was 30.06.2017. The name of Shri.H.R.Rajappa has been recommended by his administrative Department to the DP&AR of the State Government on 14.11.2019, much later than the last date circulated for the purpose.*



3. It is mentioned that as it was not practicable to hold the Selection Committee Meeting by the end of December, 2017, to consider the proposal submitted by the State Government vide letter dated 26.12.2017 for preparation of Select List of 2016 for induction into IAS (Non-SCS), the Commission invoked Regulation 5(c) of the Selection Regulations, vide letter dated 03.01.2018. However, in OA No.170/883-884/2017 filed by Dr.A.Lokesha & Anr., the Hon'ble CAT, Bangalore Bench, vide order dated 09.02.2018, directed to process the proposal submitted by the State Government and call for SCM to finalise selection of Non SCS officers for IAS against vacancies of 2016.

4. In respect of the name of Shri.H.R.Rajappa proposed by the State Government, vide letter dated 16.12.2019, for consideration in lieu of the officer who has withdrawn his name, it is mentioned that the name of Shri.H.R.Rajappa has been recommended by his administrative Department to the DP&AR of the State Government 2½ years after 30.06.2017 i.e. the last date for receipt of such recommendation in the DP& AR. Consideration of the name recommended to the DP&AR after the last date (which was not extended further) will vitiate the procedure (unless the recommendation is in compliance of any specific direction of any competent Court, within the pruvieu of the Regulations). Further such recommendation will be against the spirit of the order dated 09.02.2018 of the Hon'ble Tribunal as affirmed by the Hon'ble High Court and the Hon'ble Supreme Court compliance of which the Select List of 2016 for selection of Non-SCS officers for appointment to IAS of Karnataka Cadre is to be prepared otherwise it was to be prepared upto 31<sup>st</sup> December, 2017 as per the Selection Regulations.

5. In view of above, the State Government is requested to review proposing the name of Shri.H.R.Rajappa for Select List of 2016.

Your faithfully,

Sd/-

(G.C.Saha)

Under Secretary (AIS)

Tel. No.011-23382724

e-mail: [gcsaha-upsc@gov.in](mailto:gcsaha-upsc@gov.in)

Copy to:

The Secretary to the Govt. of India, Department of Personnel & Training,  
North Block, New Delhi-110 001 [Kind Attention: Shri.Pankaj Gangwar,  
Under Secretary (AIS).]

7. Apparently there was some conflicting communication from the state government and the UPSC in this regard. After having heard all Counsels, we also feel



that UPSC may be right in this. Shri.H.R.Rajappa's case came to be included in 2016 because one person had declined the candidature. But then because of the efflux of time the parity which is to be maintained between them came to be disturbed seems to be the objection of UPSC. While no harm would have been caused if he is also considered, this objection of UPSC seemed to be atleast valid partially. *As per info*

8. Learned counsel for the applicant would submit that if this issue is taken as the only issue to be settled between the Government and UPSC, then there will be further prejudice.

9. UPSC at this point of time submits that if given 10 days time they can finalise the whole thing as everything is ready with them. The applicant says it can be done within one week also. But we feel that we will go by a more rational approach. Let them complete the process between ten to fifteen days time as they also have to interview all these people. In any case, let this be completed within the 18<sup>th</sup> of March and appropriate processes issued and complete the matter since all parties are in agreement and we have discussed this matter with everybody and hence there is no need to continue with this matter. Therefore, Contempt applications are hereby closed. Notices are discharged but with liberty. No costs.

(C V SANKAR)  
MEMBER (A)

(DR K B SURESH)  
MEMBER (J)

/rsh/