

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**ERNAKULAM BENCH**

**Original Application No. 180/00008/2021**

**Thursday, this the 17<sup>th</sup> day of June, 2021**

**CORAM:**

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

K.V. Vijayan, S/o. K.K. Velayudhan, aged 57 years,  
 Superintendent of Police (Retd.), SBCID, Ernakulam,  
 Tripunithura, Kochi – 682 301, (Kochupurackal House,  
 Koruthode, Moozhikal, Mundakayam – via, Idukki District,  
 Pin – 686 513), Mob. No. 9447235331. .... **Applicant**

**(By Advocate : Mr. Babu Joseph Kuruvathazha)**

**V e r s u s**

1. Union of India, represented by its Secretary,  
 Ministry of Personnel, Public Grievances & Pensions,  
 Department of Personnel and Training, North Block,  
 New Delhi, Pin – 110 012.
2. The Secretary to Government, Ministry of Home Affairs,  
 New Delhi, Pin – 110 012.
3. Union Public Service Commission, represented by its Secretary,  
 Shahjahan Road, New Delhi, Pin – 110 069.
4. Selection Committee for Indian Police Service, represented by  
 Chairman, Union Public Service Commission, Shahjahan Road,  
 New Delhi, Pin – 110 069.
5. State of Kerala, represented by the Chief Secretary, Government  
 Secretariat, Thiruvananthapuram, Pin – 695 001.
6. State Police Chief, Police Head Quarters, Thiruvananthapuram,  
 Pin – 695 001. .... **Respondents**

**(By Advocates : Mr. Anil Ravi, ACGSC (R1&2),  
 Mr. Thomas Mathew Nellimoottil (R3&4) and  
 Mr. M. Rajeev, GP (R5&6)]**

This application having been heard on 01.06.2021, the Tribunal on  
 17.06.2021 delivered the following:

## **ORDER**

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

The applicant has filed this Original Application seeking the following reliefs:

- “i) Issue appropriate direction or order, directing the respondents to fill up the vacancies occurred during 2019, to the Indian Police Service, from among the eligible candidates under the 5<sup>th</sup> respondent, forthwith, at any rate within a time frame as may be fixed by this Hon'ble Tribunal;*
- ii) Issue such other appropriate direction or order as this Hon'ble Tribunal may deem fit and proper in the interest of justice.”*

2. In brief, the case of the applicant is that he retired from service while he was working as Superintendent of Police on 31.5.2019 and he comes within the zone of consideration for the promotion to IPS. He has filed OA No. 351/2019 before this Tribunal for consideration of his name in spite of his retirement and this Tribunal had directed that *“the fact that the applicant is retiring from State Police Service will not stand in the way of his case being considered for inclusion in the IPS, if he is otherwise eligible”*. The said order was obtained on 27.5.2019. Now 1½ years passed after his retirement and according to him the respondents have not convened the Screening Committee Meeting (SCM) for the year 2018 till date and the matter is being delayed indefinitely. He is entitled for consideration for the selection for the year 2019. He has also produced an earlier order passed by this Tribunal in OAs Nos. 213 of 2020 and 215 of 2020 wherein this Bench directed the respondents to expedite the selection for the year 2018. So the applicant prays for an interim relief to direct the respondents to convene the SCM for selection of vacancy for the year 2019 at the earliest without any

further delay.

3. Respondent No. 5 the State has filed a detailed statement. The counsel Shri Advocate Thomas Mathew Nellimoottil appeared for the UPSC and Selection Committee and submitted the difficulties experienced by the UPSC. Respondent No. 2 had also filed a brief statement stating the reasons for the delay.

4. We have gone through the detailed statement given by respondent No. 5 the State of Kerala in this case. According to the counsel appearing for the State, the respondents had taken steps for filling up the vacancies for the year 2018 and forwarded the names of eligible candidates to the UPSC and the UPSC had informed the convening of SCM on 26.4.2021 which is produced as Annexure R5(a). As per Regulation (3) of the IPS (Appointment by Promotion) Regulations, 1955 the Chief Secretary of the State Government, Principal Secretary/Secretary, Home Department and the DGP of Police are the members of the State Government to attend the SCM. But unfortunately due to the surge of Covid-19 cases in the State it was not possible for the above officers to attend the meeting on 26.4.2021. Due to the emerging pandemic across the Country the State Government has requested as per letter dated 17.4.2021 to postpone the SCM to another date in May or arrange the same through video conference. The said letter is produced as Annexure R5(b). The UPSC considered the issue of convening the SCM through video conference and decided to continue the present practice to hold the meeting physically. UPSC also informed that the SCM

to be conducted on 26.4.2021 has been postponed and the date will be intimated later. The said letter is produced as Annexure R5(c). Again the State Government on 15.5.2021 informed the Commission that due to the prevailing pandemic situation it is not conducive for the members of the State Government to travel to New Delhi at this juncture and it was suggested that the Resident Commissioner of the Government of Kerala may be permitted to represent the State in the SCM and they are awaiting the reply of the UPSC.

5. As regards the selection for the year 2019 there exists 8 vacancies and proposal in this regard is being prepared in consultation with the Home Department. The list will be finalized soon. ACR of eligible officers (3 times of vacancies) has to be examined in detail and has to be checked after collecting the relevant documents. The State Government will finalize the list of 24 officers and forward the same to UPSC for conducting the SCM for the year 2019. It was also submitted that the eligibility list for the year 2019 can be finalized only after convening SCM for the year 2018 and notifying the select list for 2018. So according to the respondents there is no laches on their part and they are eagerly waiting for the reply of the UPSC in this regard.

6. Respondent No. 2 had filed a statement to the effect that it is for the State Government to take necessary steps for the selection and they have no objection to the meeting of the SCM as early as possible.

7. Counsel appearing for the UPSC submitted that the UPSC has serious apprehensions regarding the confidentiality of meetings held through video conference and hence they are desisting meeting through video conference. Any how he submitted that recently the Hon'ble High Court of Bombay in WP (ST) No. 10290/2021 dated 21.5.2021 had directed the UPSC to conduct such meeting either physically or by video conference.

8. We have heard all the counsels appearing in this case and we find that even though SCM has been scheduled to be held for the selection of 2018 batch of IPS from the State Service, it was not conducted and it got postponed due to the emerging Covid situation in the State and through out India. Thereafter the State Government has proposed the meeting through video conference but that was also not accepted. It appears that for some reasons or other the SCM for the year 2018 is being adjourned without any finality. We wish to bring to the notice of the respondents including the UPSC that the Hon'ble Supreme Court in **Syed Khalid Rizvi v. Union of India** – 1993 Supp (3) SCC 575 had observed as follows:

*“The absence of chances of promotion would generate frustration and an officer would tend to become corrupt, sloven and a mediocre. Equal opportunity is a fertile resource to augment efficiency of the service. Equal chances of promotion to the direct recruits and the promotees would produce harmony with accountability to proper implementation of government policies. Unless the select list is made annually and reviewed and revised from time to time, the promotee officers would stand to lose their chances of consideration for promotion which would be a legitimate expectation. This Court in **Mohan Lal Kapoor case** held that the Committee shall prepare every year the select list and the list must be submitted to the UPSC by the State Government for approval and thereafter appointment shall be made in accordance with the rules. We have, therefore, no hesitation to hold that preparation of the select list every year is mandatory. It would subserve the object of the Act and the rules and afford an equal opportunity to the promotee officers to reach*

*higher echelons of the service. The dereliction of the statutory duty must satisfactorily be accounted for by the State Government concerned and this Court takes serious note of wanton infraction.”*

It has also to be noted that the Hon'ble apex court in ***Union of India v. Vipin Chandra Harilal Shah*** – (1996) 6 SCC 721 held as under:

*“It must, therefore, be held that in view of the provisions contained in Regulation 5, unless there is a good reason for doing so, the Selection Committee is required to meet every year for purpose of making the selection from amongst the State Civil Officers who fulfill the conditions regarding eligibility on the 1<sup>st</sup> date of January of the year in which the Committee meets and falls within the zone of consideration as prescribed in Clause (2) of Regulation 5.”*

From this it can be seen that the applicant in this case has a fundamental right for consideration of his candidature and this is being defeated by frequent postponement of SCM for one reasons or other. As per provisions contained in Regulation 5 the UPSC is bound to conduct SCM meetings once in every year. This is also being defeated and more than two years is taken for the selection of 2018 batch. It has come to the notice of this Tribunal that Government is loosing a lot of money on account of claim put forward by the officers for the period which they would have worked if selection is conducted properly. This also causes loss to the state exchequer. So it is highly necessary to conduct the SCM through video conference or through physical meeting at the earliest.

**9. Accordingly, we direct the respondents UPSC (R3&4) to conduct SCM within a period of 40 days either through video conference or through physical meeting for the year 2018 without delay. The respondents State Government (R5&6) are directed to prepare the final list for selection of 2019 batch at the earliest after finalizing the aforementioned within a period of 90 days from the date of this order.**

10. The Original Application is disposed of as above. No order as to costs.

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

**(P. MADHAVAN)**  
**JUDICIAL MEMBER**

“SA”

**Original Application No. 180/00008/2021****APPLICANT'S ANNEXURES**

**Annexure A1** - True copy of the order GO (Rt) No. 2012/2008/Home dated 20.6.2008 issued by the Government of Kerala.

**Annexure A2** - True copy of the order dated 27.5.2019 in OA No. 351/2019 of this Hon'ble Tribunal.

**Annexure A3** - True copy of the order dated 9.7.2020 in OA Nos. 213/2020 and 215/2020 of this Hon'ble Tribunal.

**RESPONDENTS' ANNEXURES**

**Annexure R5(a)**- Letter No. 7/9(1)/2020-AIS dated 6.4.2021 from the Union Public Service Commission.

**Annexure R5(b)**- DO letter No. AIS-C3/25/2019-GAD dated 17.4.2021.

**Annexure R5(c)**- Letter No. 7/9(1)/2020-AIS dated 20.4.2021 from the Union Public Service Commission.

**Annexure R5(d)**- DO letter No. AIS-C3/25/2019-GAD dated 15.5.2021.

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