

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD.

Dated: Allahabad, the 31st day of July, 2001.

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. S. K. I. Naqvi, J.M.

ORIGINAL APPLICATION NO. 679 OF 1993

Jitendra Nath,  
s/o Pt. Ramesh Chandra,  
r/o B-5, Circuit House,  
Kanpur.

..... Applicant

By Advocate: Sri Lalji Sinha

Versus

1. Chairman, Union Public Service Commission,  
New Delhi.
2. Union of India, through Secretary,  
Ministry of Personnel,  
Public Grievances & Pension,  
Department of Personnel & Training,  
New Delhi.
3. State of U.P. through  
Department of Appointment,  
Lucknow.

..... Respondents

By Advocate: Sri Satish Chaturvedi  
for Respondent No. 1.

Sri K. P. Singh  
for Respondent No. 3

Contd. .2

O\_R\_D\_E\_R (ORAL)

(By Hon'ble Mr. S. Dayal, AM)

This application has been filed for a direction to Respondent Nos. 1 & 2 to call a fresh D.P.C. and consider the case of the applicant taking into consideration the Confidential Reports of the applicant for the year 1989-90 for the period April, 1989 to September, 1989 and the President's Award. Another relief is to direct the Respondent Nos. 1 & 2 to consider the case of the applicant and to promote him in the I.A.S. cadre, ignoring the record of the departmental proceedings initiated in the year 1991 by the Respondent No. 3, as a result of which censure entry was awarded, which was subsequently quashed by the State Public Services Tribunal in 1996. The claim of the applicant is that his case for promotion to I.A.S. cadre was not considered by the Departmental Promotion Committee held in 1992-93 and apprehension is that his case would also not be considered in the D.P.C. for the year 1993-94 for the purpose. The applicant has claimed that he was given a Presidential Award for his services for the year 1984-85, when he worked as Additional District Magistrate, Civil Supplies, Kanpur and that he had an outstanding career through-out his service. He is one of the seniormost officers of U.P. Executive Service of 1967 Batch and was considered for promotion in IAS cadre by the D.P.C. held in 1992. The applicant came to know that in 1993 his junior Manmohan Singh has been promoted and the applicant has not been

considered by the Selection Committee. He claimed that the Confidential Report for 1989-90 (April, 1989 to 30th September, 1989) and President's Award were not considered by the D.P.C. for the year 1992-93. He made a representation to that effect. He claimed that 5 years character rolls were to be taken into consideration for promotion to IAS cadre and entry for part of 1989-90 was also required to be considered.

2. We have heard Sri Lalji Sinha for the applicant and Sri Satish Chaturvedi for the Respondent No.1 and Sri K.P. Singh for Respondent No.3.

3. The learned counsel for the applicant sought reconsideration of the applicant's case by the DPCs, which were held from 1992 to 95 and prayed the DPCs should be required to take into consideration the Confidential Report of part of the year 1989-90 and President's Award in the year 1984-85, the setting aside of the punishment of censure by the State Public Services Tribunal in 1996 and the fact that the applicant was given the seniority of 1967 Batch, vide judgment of the Apex Court dated 16.1.1995 in S.L.P. (C) No.5585-86 of 1994.

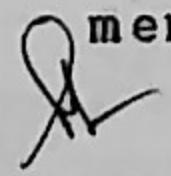
We find that the Respondent No.3 has stated in the Supplementary Counter filed on 8.8.2000 that Confidential Report for the year 1989-90 as well as President's Award were put up before the I.A.S. Selection Committee and the applicant had been considered along with other officers of the State Civil Services in 1992, 93 and 94 by the Selection Committee

considering his seniority along with 1967 Batch provisionally. The applicant was not included in the select-list. It is stated that the Selection Committee, which met on 21/22nd March, 1995 considered the candidature taking the year of allotment as 1970 and the applicant was not included in the select-list. It is also stated that relevant entry of the applicant for the period 1.4.80 to 30.9.89 recorded by Sri S.K. Modwel together with State Public Services Tribunal order dated 20.3.95 were made available to the Union Public Service Commission on 21.3.95, vide State Government's letter No.1864/II-1-29/(i)/94 dated 21.3.95. It is also stated that the entry recorded by Sri S.K. Modwel, who was the Reviewing Officer was received very late, <sup>and was received</sup> with an undated letter after Mr. S.K. Modwel took voluntary retirement w.e.f. 1.10.91. Therefore, this has not been kept on record, as per Government's decision. It has been stated that the applicant was considered by the Selection Committee in its meeting held on 18.3.96 and the applicant had been appointed to the IAS as a result of its recommendation on 22.8.96.

5. We have also considered the counter reply filed by the Respondent No.1. It has been stated by the Respondent No.1 that the Committee classifies eligible officers included in the zone of consideration as "Outstanding", "Very Good", "Good" and "Unfit", and as per provisions of Regulation 5(5) of Regulation of IAS of Appointment by Promotion Regulations, 1955, prepares a list of such eligible officers

and their names are arranged as per classification, i.e. Outstanding, then Very good and thereafter Good and they are arranged in inter se seniority in each category. It is also mentioned that the Selection Committee is not guided by only overall grading that may be recorded in the Confidential Report but it also considers and make its own assessment on the basis of in-depth examination of service records and deliberating on the quality of the officer as reflected under various columns of Confidential Reports recorded by the Reporting Officer, Reviewing Officer and the Accepting Officer finally for different years and then arrives on the classification to be assigned to each eligible officers.

The Selection Committee also takes into account orders regarding appreciation for meritorious work done by the concerned officer. It also keeps in view orders regarding penalty or any adverse remarks. The Respondent No.1 has stated that the Committee bases its opinion on the basis of the proposal of data sent by the concerned State Government, which includes seniority list and other relevant documents. The counter reply also includes various authorities relied upon by the Respondent No.1. They are Nutan Arvind Vs. UOI & others, (1996) 2, Supreme Court Cases 488, UPSC Vs. H. L. Dev and others AIR 1988 SC 1069, State of Madhya Pradesh Vs. Shrikant Chapekar JT 1992 (5) SC 633, Dalpat Abasaheb Solunke Vs. B. S. Mahajan AIR 1990 SC 434, and Smt. Anil Katiyar Vs. UOI & others 1997(1) SLR 153 to stress the contention that the assessment of the candidates is exclusive preserve



clear from the ament of Respondent No.1 that gradings given by the Reviewing Authority as well as Accepting Authority, if any, are not accepted on their face by the Selection Committee, but the Selection Committee makes its own assessment based on the factors in favour of the candidate as well as against the candidate. We do not know how much of influence resulted in the assessment of the applicant by the Selection Committee on account of the fact that the applicant was proceeded against for wrong sponsoring of ~~pol~~ coal and irregular distribution of Kerosene alleged against the applicant for the year 1984-85, when the applicant was working as Additional District Magistrate (Civil Supplies), Kanpur, from 12.7.84 to 30.6.85. We, therefore, are of the opinion that the selection of the applicant deserves to be re-considered by the Selection Committee in the form of review on account of expunction of censure entry in the year 1996 for the period from 1992-95. This shall be done by the Respondents at the time of next D.P.C. In case the applicant is empanelled in an earlier year on account of such consideration, he shall be entitled for the consequential benefits. O.A. stands disposed of with no order as to costs.

*(S.K.I. NAQVI)*  
(S.K.I. NAQVI)  
MEMBER (J)

*(S. DAYAL)*  
(S. DAYAL)  
MEMBER (A)