

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

ted : This the 03rd day of MAY 2002

Original Application no. 466 of 1995.

Hon'ble Mr. Justice RRK Trivedi, Vice-Chairman
Hon'ble Maj Gen K.K. Srivastava, Member (A)

Hanumat Prasad Mishra, S/o Late Sri O.N. Mishra,
DIG, Railways, Allahabad.

... Applicant

By Adv : Sri NS Chaudhary, Sri Rajesh Mishra,
Sri KK Mishra

Versus

1. Union of India, through its Secretary,
Ministry of Home Affairs, New Delhi.
2. Union Public Service Commission,
through its Chairman, Shahjahan Road,
New Delhi.
3. State of UP, through Chief Secretary,
Lucknow.
4. Surendra Nath Singh, Asstt. Director,
BPR & D, New Delhi.
5. Virendra Kumar, DIG, Police Karmik PHQ,
Allahabad, through DGP Lucknow.
6. AK Pandey, Dy Inspector General of Police,
PAC, Moradabad, through DGP Lucknow.
7. US Bajpai, Dy Inspector General of Police,
Housing & Welfare, PHQ, Allahabad,
through DGP, Lucknow.
8. SK Awasthi, DIG, ITBP, Dehradun.
9. Vikram Singh, DIG, Meerut Range, Meerut,
through DGP Lucknow.
10. Giria Raj Shah, DIG, PTC -1, Moradabad,
through DGP, Lucknow.

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11. SK Chandra, DIG (Fire Service), through DGP, Lucknow.
12. UC Ghildiyal, DIG, Anti Corruption, Lucknow, through DGP Lucknow.
13. BK Bhola, DIG Nainital Range, Nainital, through DGP Lucknow.
14. Jitendra Kumar, DIG, Shanti Suraksha Bal, Lucknow. through DGP Lucknow.
15. BP Gupta, DIG, PAC Lucknow, Sector Lucknow. through DGP Lucknow.
16. AB Lal, DIG, Azamgarh Range, Azamgarh, through DGP Lucknow.
17. SK Tripathi, DIG, PAC Bareilly, through DGP Lucknow.
18. PPS Sidhu, DIG, PTC Moradabad, through Director General of Police, Lucknow.
19. OPS Malik, Dy Inspector General of Police, CRPF, Allahabad.
20. Uttam Kumar Bansal, Cabinet Sectt. MHA, New Delhi.
21. A Palanivel, Dy Inspector General of Police, Range Kanpur, through Director General of Police, Lucknow.
22. C.M. Bahtt, Dy Inspector General of Police, BSF Bangalore.
23. Ranjit Kumar Bhatia, Joint Director, Vigilance, Lucknow. through Director General of Police, Lucknow
24. Rai Umapat Ray, Dy Inspector General of Police, CBCID, Lucknow. through Director General of Police, Lucknow.
25. Shiv Nath Chak, Dy Inspector General of Police, CID, Lucknow.
26. Mr. Suraj Kaur Mehra, Dy Inspector General of Police, Joint Director, Vigilance, through DGP Lucknow.

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27. Mohan Das Menon, Ex Under Secretary (A.B.D-1), Cabinet Sectt. New Delhi.

28. Rajiv, Dy Inspector General of Police, Jhansi Range, Jhansi, through DGP Lucknow.

29. Rajendra Singh Dhillon, Dy Inspector General of Police, Allahabad Range, Allahabad through DGP Lucknow.

30. Karmvir Singh, Dy Inspector General Police, Shanti Suraksha Bal, Lucknow. through DGP Lucknow.

31. Babu Lal Yadav, Dy Inspector General of Police, Agra Range, Agra, through Director General of Police, Lucknow.

32. Vikram Chandra Goel, Dy Director (Trg.), CRPF, Guwathati.

33. Dhirendra Narayan Samal, Assistant to Director General of Police, Lucknow, through DGP Lucknow.

34. Dinesh Kumar Sharma, Joint Director, Vigilance, Lucknow. through DGP Lucknow.

35. Bishnu Pada Chakarbooty, Director, Cabinet Sectt. MHA, New Delhi.

36. Bidan Chandra Nayak, Dy Director, SIB, Bhopal.

37. Vibhuti Narain Rai, BSE (Police Research Fellow), National Police Academy, Hyderabad.

38. Ram Bahadur Singh, IPS (Retd) r/o C 866 Mahanagar Extension, Mahanagar, Lucknow.

39. Uma Shankar IPS (Retd.) R/o D 2227 Indra Nagar, Lucknow.

... Respondents

By Adv Sri RC Joshi, Sri A.K. Gaur & Sri KP Singh



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O R D E R

Hon'ble Mr. Justice RRK Trivedi, VC.

By this OA filed under section 19 of the A.T. Act, 1985 the applicant has challenged the order dated 5.12.1994 (Ann A3) by which, in pursuance of the order dated 20.11.1993 passed by Hon'ble Supreme Court in Civil Appeal no. 2932/89, notional select list of 1970, 1974, 1975, 1978 and 1979 has been finalised. The order also directed that the seniority of the promotees IPS Officers of UP Cadre may also be finalised. After considering the representations and objections of the officers UPSC, finalised the notional select list which has been communicated by impugned order dated 5.12.1994. The applicant Sri H.P. Mishra has been assigned 1979 as year of allotment whereas some officers who according to him were junior to him have been given the year of allotment of 1973 and 1974. Aggrieved by which the applicant has challenged the seniority list and prayed for direction to the respondents to place the applicant above his juniors and also to consider the applicant for promotion to the post of Inspector General of Police.

2. Resisting the claim of the applicant, respondents have filed counter affidavit. In para 13 whereof the entire process has been clarified and position of the applicant has also been mentioned as to how his juniors were assigned seniority of the different years. Para 13 of the counter affidavit is being reproduced below :-

"13. That in reply to the contents of paragraph 4(3) of the petition it is submitted that the representation submitted by the applicant was forwarded by the State Government alongwith their comments and the Government of India have also

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forwarded their views. The Commission has examined the same in detail and conveyed its decision to the Government of India on 11.11.1993. It is submitted that the applicant was included in the select list of 1977 and was placed at serial no. 23. Since no meeting of the Selection Committee was held during 1978 and 1979 therefore, the select list of 1977 was not acted upon during these years and the applicant was appointed to Indian Police Services on the basis of select list of 1977. Subsequently on the directions of the Hon'ble Supreme Court a meeting of the Selection Committee was held in December, 1991 and February, 1992 to prepare notional Select lists for the year 1971, 1975, 1976, 1978 and 1979. As there were only 20 vacancies in the year 1977, the officers from serial no. 21 onwards in the Select list of 1977 were considered for inclusion of their names in the Select list of 1978 by the Review Selection Committee in its meeting held in December, 1991 and February, 1992. On the basis of overall assessment of service record of the applicant, the applicant was assessed as 'Good' and on the basis of this assessment the name of the applicant could not be included in the notional select list of 1978 as the officers with 'Very Good' grading were available. Further inclusion of the name of an officer in any select list does not confer any right for inclusion of his name in the select list of next year. It is, further, submitted that every year one more ACR is added to the C.R. Dossier. As a consequence, overall grading of an officer may improve or go down and the possibility of that officer moving upward in the select list or being excluded therefrom cannot be ruled out. In this connection the kind attention of the Hon'ble Tribunal is invited to the observations of the Hon'ble Supreme Court in the case of U.C.I. Vs. M.L. Capoor and others reported in 1972 (2) SLR 8240 which runs as under :-

"If the Criteria for selection are merit and suitability from among all the

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eligibility members then, the field of selection must comprise of the entire category of eligible members of the service. Otherwise, the selection will not be on the basis of merit and suitability from among all the eligible members of the State Service. In other words, the inclusion of the name of a member in the select list for a year will not be an entitlement for inclusion in the select list for the succeeding year. A fortioria member who has been assigned a rank in the select list for a year can have no claim for the same rank in the next year.""

3. From the aforesaid it is clear that the applicant was assessed in ACR as 'good' whereas other officers were assessed 'Very Good'. When the selection was made on the basis of merit, selection of the junior officers in preference to seniority does not ~~count~~ ^{amount} to supersession of the senior officers. Procedure prescribed under ~~the rules~~ ^{5(4) and 5(5) of IPS (Appointment on Promotion) regularisation} ~~procedure~~ ⁱⁿ 1955, was adopted. The Hon'ble Supreme Court has already approved this ⁱⁿ case of R.S. Dass Vs. U.O.I. & Ors, AIR 1987 SC page 593. The Hon'ble Supreme Court has held as under :-

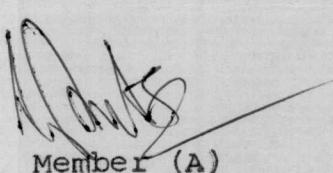
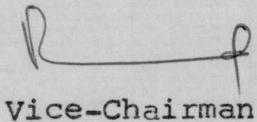
"The amended provisions of Regulation 5 have curtailed and restricted the role of seniority in the process of Selection as it has given priority to merit. Now the committee is required to categorise the eligible officers in four different categories viz. 'Outstanding', 'Very good', 'Good' and 'Unfit' on overall relative assessment of their service records. After categorisation is made the committee has to arrange the names of the officers in the Select list in accordance with the procedure laid down Regulation 5(5). In arranging the names in the Select list the Committee has to follow within each category. If there are five officers

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who fall within outstanding category their names shall be arranged in the order of their inter-service seniority in the State Civil Services. The same principle is followed in arranging the list from amongst the officers falling in the category of 'Very good' and 'good'. Similarly, if a junior officer's name finds place in the category of outstanding, he would be placed higher in the select list in preference to a senior officer finding place in the 'very good' or 'good' category. In this process a junior officer having higher grading would supersede his seniors. This cannot be helped. Where selection is made on merit alone for promotion to a higher service selection of an officer though junior in service in preference to senior does not strictly amount to supersession."

4. From the aforesaid it is clear that the seniority of the applicant has been rightly assigned and the order ~~does~~ not suffer from any error of law. The applicant is not entitled for any relief. The OA is accordingly dismissed.

5. There shall be no order as to costs.


Member (A)
Vice-Chairman

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