

Appointment

B

(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 337/87

~~BA No~~

DATE OF DECISION 22.7.1992

Satya Pal Gusain Petitioner

Party in person Advocate for the Petitioner(s)

Versus

The State of Gujarat & Ors. Respondent

Mr. Anil Dave, Advocate for the Respondent(s)
Mr. Akil Kureshi

CORAM :

The Hon'ble Mr. N.V. Krishnan : Vice Chairman

The Hon'ble Mr. R.C. Bhatt : Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

Satya Pal Gusain

... Applicant.

Vs.

1. The State of Gujarat,
Through:
The Chief Secretary,
Government of Gujarat,
General Administration Department,
Gandhinagar.
2. Union of India,
Through:
The Secretary,
Ministry of Personnel, Pension and
Public Grievances,
Department of Personnel and Training,
New Delhi.
3. The Chairman,
Union Public Service Commission,
Dhampur House,
Shahjahan Road, ~~Ready, Road,~~
New Delhi.

Respondents

O R A L J U D G M E N T

O.A./ 337/ 1987

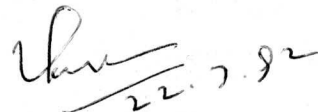
Date: 22.7.92

Per: Hon'ble Mr. N.V. Krishnan : Vice Chairman

The applicant has been served and though his residence is in Ahmedabad, there is no appearance either by him or by any representative. Shri Anil Dave learned counsel for the respondent is present. This is a 1987 matter. Perhaps applicant is not interested. Dismissed for default.




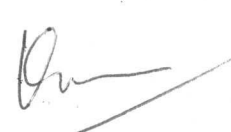
(R.C. Bhatt)
Member (J)



(N.V. Krishnan)
Vice Chairman

M.A. 308/92
in
O.A. 337/87

12

Date	Office Report	O R D E R
(10) 12.10.92	<p>Res. Submitted reply not filed objection 4-1-93.</p>	<p>Applicant-in-person. He has filed M.A. 308/92 for restoration of O.A. 337/87, which was dismissed in default on 22.7.92. Mr. Akil Kureshi for the respondent No. 2 & 3 has no objection. The applicant states that he has served a copy of the M.A. on the 1st respondent, General Administration Department. In the circumstances application is restored to file. M.A. is disposed of accordingly.</p> <p>2. O.A. is 1987 matter. Respondent No. 2 & 3 have filed not filed reply. They are given four weeks time to file reply. The applicant is directed to file rejoinder within two weeks thereafter. List before the Bench for final hearing on 6th January 1993.</p> <p> (R.C. Bhatt) Member (J)</p> <p> (N.V. Krishnan) Vice Chairman</p> <p>vtc.</p>

OA 337/82

13

DATE	OFFICE REPORT	ORDERS.
6-1-1993		<p>None for the applicant. He appeared in preson on the last occassion. None for the first respondents. Shri Akil Kureshi for respondents no. 2 and 3. He states that the reply has been filed in the registry on 7-12-1992. He states that the respondents No.3 who is concerned ^{has} as ^{been} in the reply which is on record. He could not serve the copy of the reply on the applicant because the registered letter has been recieved unserved. It is seen that the applicant has stated in the clarification in M.A. 38/92 that he is working as Asst. Area Development Commissioner (KP) Ahmedabad. The respondent should try to effect service on this address or any other new address known. Rejoinder if any to be filed within two weeks. Call on 3-2-1993.</p> <p>(B.S. Hegde) Member (J)</p> <p>(N.V. Krishnan) Vice Chairman</p> <p>*AS.</p>

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Satya Pal Gusain. Applicant.

V/s.

The State of Gujarat & Ors. Respondents.


ORAL ORDER


O.A. 337 OF 1987

Date: 3.2.1993.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

None is present for the applicant even after the matter was called twice. There is no mention for adjournment also either from the applicant. Hence the matter is dismissed for default. No orders as to costs.


(V. Radhakrishnan)
Member (A)


(R.C. Bhatt)
Member (J)

vtc.

OFFICE REPORT

ORDERS.

12-5-93

The applicant is present in person.
 The respondents' advocates is present.
 In the interest of justice, the matter
 is adjourned to 14-6-93. on which date
 if the M.A. ^{be} allowed, the applicant should
 be ready also to argue the matter on merits.

Call on 14-6-93.

M.R. Kolhatkar

(M.R. Kolhatkar)

Member(A)

R.C. Bhatt

(R.C. Bhatt)

Member(J)

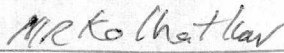

*SS

14.6.93

This is a Division Bench matter, hence
 it is adjourned to 19th July, 1993.

R.C. Bhatt
 (R.C. Bhatt)
 Member(J)

vtc.

Date	Office Report	O R D E R
19.7.93		<p>The applicant is present in person. He has filed M.A. 296/93 for restoration of O.A. 337/87 which was dismissed for default on 3rd February, 1993. The applicant has filed M.A for restoration of the said application. In para 3 of the M.A, the applicant has mentioned that he was unable to attend the Tribunal on 3rd February, 1993 due to sickness and non-receipt of notice of hearing. We are always sympathetic to the applicant whose matter is dismissed for default when he files an application for restoration. The present applicant was asked whether on the previous date of 6th January 1993 he was present or not to which he has categorically stated before us that he was present, but according to him, the officer told him that the matter was adjourned. In our opinion this is absolutely an incorrect statement because our order sheet shows shows that on 6th January, 1993 he was present and the matter was adjourned to 3rd February, 1993. In order to know the correctness of the factual aspect ^{about} of his presence or absence on 6th January, 1993, applicant may file affidavit to put the record straight. Call on 26th July, 1993.</p> <p style="text-align: center;">  (M.R. Kolhatkar) Member (A) </p> <p style="text-align: right;">  (R.C. Bhatt) Member (J) </p>

vtc.

Date	Office Report	O R D E R
26.7.93		<p>The applicant is present in person. He has filed affidavit today, a copy of which is given to the learned advocate for the respondents, who does not want to file any reply to that affidavit. No reply is filed to M.A.296/93. Though the applicant has in his affidavit stated that he attended in this Tribunal on 6th January, 1993/^{our}which order sheet shows that he was not present and therefore, the averments even made on oath is^{are} not accepted because our order sheet clearly shows his absence. However, the question requires to be considered whether there was a sufficient ground to his absence on 3rd February, 1993. It is mentioned in the applicant's ^{affidavit} and affidavit that due to his illness he was not able to attend it. As there is no reply by the other side controverting this factual position of his illness, We accept that statement and we find there is not sufficient cause to restore the matter. Hence M.A. 296/93 is <u>allowed</u>. The order of dismissal of O.A. dated 3rd February, 1993 is set aside and O.A. is <u>restored to file</u> and the matter is kept for final hearing on <u>17th August, 1993</u>. The applicant should take note of this date, He should also take note that in case this matter is adjourned on 16th August, 1993 on any subsequent date of notice from the office will be issued</p>

2 copies
Recd
13-8-93

Date	Office Report	ORDER
		<p>to him, but he should take care for taking the date either from the Bench Clerk or from the office. The applicant is also directed to produce any documents if at all he wants to produce in this matter before the Registry before the date of hearing. No documents will be allowed to be produced on the date of hearing. The learned advocate Mr. Akil Kureshi for the respondents No.3 has given copy of reply to the applicant. So far reply filed by opponent No.2 is concerned, though the endorsement on the reply shows that the copy served on the other side, the applicant submits that he has not received the copy. Therefore, the opponent No.1 to serve the copy to the applicant on or before 17th August, 1993. Issue notice to the Respondent No.1, State of Gujarat to appear in this case on 17th August, 1993 because the learned advocate Mr. Anil R. Dav who was appearing for the State of Guj. in this case has addressed a letter to the Registrar of this Tribunal on 22nd August, 1992 that his appointment has come to an end. The respondent No.1 to make arrangement for appearance of an advocate on that day. The applicant to file rejoinder to the reply of Respondent No.3 before 17th August 1993 with the copy to the learned advocate for the respondent No.3. No reply is by respondent No.2. M.A. is disposed Call on 17th August, 1993.</p> <p><i>M.R. Kolhatkar</i> (M.R. Kolhatkar) Member (A)</p> <p style="text-align: right;">(R)</p>

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O.A./337/87

DATE	OFFICE REPORT	ORDER
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17.8.1993.

The applicant is present in person. Mr.Variava for Mr.Akil Kureshi for respondent no.2 is present. The Registry to issue notice to the respondents to file reply. More over the respondent no.1 have to give the copy of the reply today to the applicant. The applicant may file rejoinder within two weeks. Call on 01.09.1993.

M.R. Kolhatkar

(M.R.Kolhatkar)
Member (A)

R.C. Bhatt
(R.C.Bhatt)
Member (J)

AIT

1/9/93

The applicant is present in person. Mr.Variava for Mr.Kureshi for respondent no. 2 is present. The Registry has issued the notice to the State of Gujarat on 26/8/93. The notice cannot be served by stretch of ^{any} imagination within these four days, during which time there were two holidays also. Hence, kept on 13/9/93. The applicant wants 8 weeks time to file rejoinder ~~of~~ to the reply of respondent no.2.

Call on 1st October, 1993. However, matter be placed before us on 13/9/93, to know, if the notice on state of Gujarat is served or not.

M.R. Kolhatkar

(M.R.KOLHATKAR)
Member (A)

R.C. Bhatt
(R.C.BHATT)
Member (J)

SS

19

4.11.93

The parties to comply with our direction dated 1st October, 1993. The matter is now kept for final hearing on 21st December, 1993.

M.R. Kolhatkar
(M.R. Kolhatkar)
Member (A)

R.C. Bhatt
(R.C. Bhatt)
Member (J)

vtc.

21.12.1993.

In view of the request of the applicant in his letter dated 10.11.1993, final hearing is adjourned to 19.01.1994. The applicant may be informed by post under postal service.

K. Ramamoorthy
(K. Ramamoorthy)
Member (A)

N.B. Patel
(N.B. Patel)
Vice Chairman

AIT

19.1.94

A letter dtd. 15/1/94 filed by the applicant, requesting to adj. his matter upto May '94
Bhefani
15.2.94

The applicant is not present though informed to remain present by notice sent Under Postal Certificate. However in the interest of justice, adjourned 16.2.94 of which date intimation may be sent to the applicant by registered post A.D.

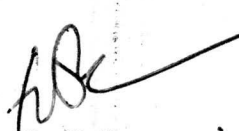

V. Radhakrishnan
(V. Radhakrishnan)
Member (A)

N.B. Patel
(N.B. Patel)
Vice Chairman

M.P.

DATE	OFFICE REPORT	ORDER
01.10.1993.		<p>The applicant submits before us that the copy of the reply given to him by respondent no.1, on 27.8.93, is not legible. According to him the pages 449, 451, 321, 322, according to him the pages no.'s written in ink, the Xerox copy of which is given apart from not being correct, some pages are not legible. None is present for the respondent no.1. The respondent no.1 to furnish the legible copy to the applicant within 15 days. The Registry to give the inspection of the reply of the respondent no.1 to this applicant if he demands for preparing rejoinder within this period of 15 days even if the respondents no.1, has not supplied the copy of the reply. The applicant to file rejoinder by 28th Oct.1993, by inspecting our record which he is permitted to inspect before the Registry. The matter is kept for final hearing on 04.11.1993, even if he does not file rejoinder.</p> <p style="text-align: center;">Call on 04.11.1993.</p> <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;"> <p><i>M.R. Kolhatkar</i></p> <p>(M.R. Kolhatkar) Member (A)</p> </div> <div style="text-align: center;"> <p><i>R.C. Bhatt</i></p> <p>(R.C. Bhatt) Member (J)</p> </div> </div> <p>AIT</p>

Date	Office Report	Order
16-2-1994		<p>Party in person has requested for hearing of this O.A. in the month of May. Hence adjourned to 3-5-1994.</p> <p style="text-align: right;"><i>R</i> (K. Ramamoorthy) Member (A)</p> <p>*AS.</p>
3-5-1994	<p>Through oversight notice to the applicant- could not be issued.</p> <p><i>CBhagan- 22-6-94</i></p>	<p>None present for the applicant. Last chance is given. Adjourned to 23-6-1994. This may be intimated to party-in-person.</p> <p style="text-align: center;"><i>[Signature]</i> (Dr. R. K. Saxena) Member (J)</p> <p style="text-align: right;"><i>[Signature]</i> (V. Radhakrishnan) Member (A)</p> <p>vtc.</p>
23.6.94		<p>The other Hon'ble Member of the Bench is not available. None is present on behalf of the applicant. Adjourned to 11.7.94.</p> <p style="text-align: right;"><i>[Signature]</i> (Dr. R. K. Saxena) Member (J)</p> <p>*ssh</p>

Date	Office Report	Order
11.7.94.		<p>The applicant has filed leave note. As this case has been delayed, a final date of hearing is fixed on 01.8.94. No further time will be given.</p> <p> (Dr. R.K. Saxena) Member (J)</p> <p> (K. Ramamoorthy) Member (A)</p>

ait.

Date	Office Report	ORDER
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1-8-94
of state
myself

On going through the papers I find that the matter relates to the period when I was in the ~~Administrative~~ Department. I therefore would like to dis-associate with the matter.

May be placed before Non'ble Vice Chairman Shri N.B. Patel for necessary orders.

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(K. Ramamoorthy)
Member (A)
May be placed before court No. 1

17
4/8/94
Date for final hearing fixed on 28/10/94.
12/5/94

28-10-1994

Applicant is informed accordingly.
24/12/95

A letter for adjournment received from the applicant. Adjourned to 13.1.1995 as the applicant has mentioned in his letter that the decision of the High Court in connected matters may have bearing on this matter. The applicant may be informed of the said date and may also be informed that his request for adjournment by letter will not be entertained henceforth.

Call on 13.1.1995.


(V. Radhakrishnan)
Member (A)


(N.B. Patel)
Vice Chairman

Date	Office Report	ORDER
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13.1.95

The applicant, who appears as party-in-person, has filed leave note and has prayed for adjournment of the case for three months. It appears that there is substance in the plea of the applicant that the fate of this O.A may depend upon the fate of the Special Civil Application which the applicant has filed before the High Court, wherein, presumably, he seeks expunction of adverse remarks against him. This being so, the case is adjourned to 19th April, 1995. The applicant may be informed.



(V. Radhakrishnan)
Member(A)



(N.B. Patel)
Vice Chairman

vtc.

19-4-95


The applicant is not present. Adjourned to 1-5-1995.



(V. Radhakrishnan)
Member(A)


(N.B. Patel)
Vice Chairman

1-5-95

Adjourned to 30-6-1995.


(V. Radhakrishnan)
Member (A)


(N.B. Patel)
Vice Chairman

Date	Office Report	ORDER
30-6-95		Time being over, adjourned to 28-7-95. <div style="display: flex; justify-content: space-between;"> <div data-bbox="586 435 899 500">(V.Radhakrishnan) Member (A)</div> <div data-bbox="1202 435 1459 500">(N.B.Patel) Vice Chairman</div> </div>
28-7-95		The applicant is not present. Adjourned to 17-8-95, Applicant may be informed the date. <div style="display: flex; justify-content: space-between;"> <div data-bbox="555 821 863 886">(V.Radhakrishnan) Member (A)</div> <div data-bbox="1233 821 1479 886">(N.B.Patel) Vice Chairman</div> </div>
17.8.95.		Sick note filed by Mr.Satya Pal Gusain (Party in person). Adjourned to 19.10.1995. <div style="text-align: right; margin-right: 100px;"> <div data-bbox="1087 1158 1402 1223">(V.Radhakrishnan) Member(A)</div> </div>
19-19-1995.		As the other learned Member of the Bench is not available the matter is adjourned to 21-12-1995. <div style="text-align: right; margin-right: 100px;"> <div data-bbox="1118 1615 1449 1680">(V. Radhakrishnan) Member (A)</div> </div>
		*AS.
		<p style="text-align: center;"><i>order</i></p> <p>As the learned Member of the Bench is not available, the matter is adjourned to 8/12/96</p>
		<div style="text-align: right;"> <div data-bbox="1133 2133 1310 2198">(N.B. Patel) Vice Chairman</div> </div>

21/12/95

Date	Office Report	ORDER
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~~21.12.95~~

8.2.96

party-in-person not present. Being
a Division Bench matter, adjourned to 7.3.96.


(V. Radhakrishnan)
Member (A)

etc.

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OA 337/87

Date	Office Report	ORDER
7-3-96		<p>As the Hon'ble Vice Chairman is sitting today in Division Bench with Hon'ble K.Ramamoorthy, adjourned to 8-5-96.</p> <p style="text-align: right;"><i>[Signature]</i> (V. Radhakrishnan) Member (A)</p>
8.5.96.		<p>*AS.</p> <p>The applicant is not present. However, adjourned to 26.6.96. Intimation may be given to the applicant Under Postal Certificate stating that if he does not remain present, the matter may have to be dismissed for default.</p> <p style="text-align: center;"><i>[Signature]</i> (V. Radhakrishnan) Member(A)</p> <p style="text-align: right;"><i>[Signature]</i> (N.B. Patel) Vice Chairman</p>
26-6-96		<p>ait.</p> <p>Applicant is not present. Adjourned to 4-7-96.</p> <p style="text-align: center;"><i>[Signature]</i> (K. Ramamoorthy) Member (A)</p> <p style="text-align: right;"><i>[Signature]</i> (A.P. Ravani) Chairman</p> <p>*VIC.</p>

Office Report

ORDER

4.7.96

The applicant-in-person has send a telegram for seeking adjournment. Adjourned to 30.9.1996.



(V. Radhakrishnan)
Member (A)

(Intro. C.A.)
30.9.96

(V. Radhakrishnan)

Being a Division Bench matter, adjourned to 22.10.96.



(V. Radhakrishnan)
Member (A)

ssh*

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CAT/J/13

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 337 of 1987

P.A.NO.

DATE OF DECISION 22.10.96

Shri Satya Pal Gusain Petitioner

Party in person Advocate for the Petitioner [s]

Versus

The State of Gujarat & others Respondent

Mr. Akil Kureshi Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. **A.V.Haridasan** Vice Chairman

The Hon'ble Mr. **K.Ramamoorthy,** Member (A)

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ?
- 2, To be referred to the Reporter or not ?
- 3, Whether their Lordships wish to see the fair copy of the Judgment ?
- 4, Whether it needs to be circulated to other Benches of the Tribunal ?

m

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Satya Pal Gusain
Deputy Controller of Civil Defence
Jamnagar

Applicant

(Party in person)

1. The State of Gujarat
(Notice to be served through the
Chief Secretary to Govt. of Gujarat
General Administration Deptt.
Sachivalaya. Gandhinagar.
2. Union of India
(Notice to be served through the
Secretary, Ministry of Personnel,
Pension and Public Grievances
Department of Personnel and Training
New Delhi.
3. Chairman
Union Public Service Commission
Dholpur House
Shahjahan Road
New Delhi.

Respondents

(Advocate: Mr. Akil Kureshi)

ORAL ORDER

in


O.A. 337 of 1987


Dated 22.10.1996

Per Hon'ble Mr. A.V. Haridasan, Vice Chairman:

~~XXXXXXXXXXXX~~

Applicant is not present. He has not been appearing on several hearings before. It appears that applicant is not interested in prosecuting the matter further. The application is dismissed for default leaving the party to bear their own cost.


(K. Ramamoorthy)
Member (A)


(A.V. Haridasan)
Vice Chairman

pmr

Date	Office Report	ORDER
21.2.97		<p>The learned advocates state that they are abstaining from work for some reason and pray for an adjournment. Adjourned to 26.3.1997.</p> <p><i>[Signature]</i> (T.N. Bhat) Member (J)</p> <p><i>[Signature]</i> (V. Ramakrishnan) Vice Chairman</p> <p>vtc.</p>
26.3.97		<p>party-in-person prays for four weeks time to remove office objections. Adjourned to 25.4.1997.</p> <p><i>[Signature]</i> (V. Ramakrishnan) Vice Chairman</p> <p>vtc.</p>
25.4.97	<p>No file issued on 8.5.97 RPAD awaiting A 24-797</p>	<p><u>M.A.313/97</u></p> <p>Heard the applicant and Mr. Kureshi for Respondent No. 2 & 3. M.A.313/97 is allowed and the case is restored. List it for hearing on 25.7.1997.</p> <p>Issue notice to the Chief Secretary to the State of Gujarat as Shri Anil Dave ^{was} has earlier State Govt. counsel and he has retired from this case. Also issue notice to Shri H.C. Patel, who represent the State Government on similar matters.</p> <p><i>[Signature]</i> (T.N. Bhat) Member (J)</p> <p><i>[Signature]</i> (V. Ramakrishnan) Vice Chairman</p> <p>vtc.</p>

Date	Office Report	ORDER
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25.7.97

27-10-97 As the Hon'ble Bench is not available, adj to 18-11-97.

[Signature]
Dy. Registrar.

Party-in-person present. Mr. Akil Kureshi present, who represent for R-2 & R-3 place before Division Bench on 27.10.1997.

[Signature]
(V.Ramakrishnan)
Vice Chairman

vtc.

18.11.97

The party-in-person submits that he has challenged before the High Court the adverse remarks in his A.C.R. communicated to him and that he expects the decision of the High Court very shortly. He also states that ground on which he has not been selected to the I.A.S. was the adverse entries besides certain inquiries which resulted in infliction of penalty which had since been quashed by the High Court. He prays for an adjournment.

This is 1987 matter and needs to be disposed of expeditiously. But in the circumstances stated by the applicant we are inclined to give some time. Mr. Kureshi is also present and says that on the next date, he will arrange to get the proceedings of the Selection Committee where the applicant alongwith the others was considered for promotion to the I.A.S. Adjourned to 2nd February 1998.

[Signature]
(P.C.Kannan)
Member (J)

[Signature]
(V.Ramakrishnan)
Vice Chairman

pnr

Date

Office Report

ORDER

27

2.2.98

The applicant is present in person and says that he is entrusted with some election duties, ^{+ pray for time} Mr. Kureshi also prays for a short adjournment to produce the proceedings of the selection committee where the applicant along with others were considered for promotion to the IAS in ~~1987~~ during the relevant period which is stated to be 1987. We find that the applicant has challenged the adverse remarks in his ACR before the Hon'ble High Court and that the same is pending. He states that the decision of the High Court in this regard would be crucial for disposal of the present O.A. Prima facie we are of the view that if he succeeds in the case before the High Court a direction will be given to the department to extend whatever consequential benefits are available and more specifically he would be given liberty to take up the matter afresh before this Tribunal and the present O.A. may be disposed of subject to the above observation. He prays for time to make his submission on this ^{point} part on the next date.

Adjourned to 4.3.98. No further time will be given

an
(P.C. Kannan)
Member (J)

VB
(V. Ramakrishnan)
Vice Chairman

vtc.

4.3.98

Party-in-person not present today even though it was clearly mentioned last time that no further time will be given. Mrs. Safaya for Mr. Kureshi says that the relevant proceedings of the Selec-

Contd...

Date	Office Report	ORDER
		<p>tion Committee are available. To give one last chance to the applicant, adjourned to 06.03.98.</p> <p style="text-align: center;"><i>PK</i> (P.C. Kannan) Member (J)</p> <p style="text-align: right;"><i>VR</i> (V. Ramakrishnan) Vice Chairman</p>
6.3.98		<p>hki</p> <p>oral order dictated in the open Court.</p> <p style="text-align: center;">(P.C. Kannan) Member (J)</p> <p style="text-align: right;">(V. Ramakrishnan, Vice Chairman</p> <p>vtc.</p>

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CAT/J/13

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 337 OF 1987
~~**T.A.NO.**~~

DATE OF DECISION 6.3.98

Satya Pal Gusain Petitioner

Applicant-in-person Advocate for the Petitioner [s]
Versus

Union of India & Ors. Respondents

Mr. Akil Kureshi Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V. Ramakrishnan, vice Chairman.

The Hon'ble Mr. P.C. Kannan, Judicial Member.

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ?
- 2, To be referred to the Reporter or not ?
- 3, Whether their Lordships wish to see the fair copy of the Judgment ?
- 4, Whether it needs to be circulated to other Benches of the Tribunal ?

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Satya pal Gusain
Dy. Controller of Civil defence,
Jamnagar.

.... Applicant.

(Applicant-in-person)

Versus

1. The State of Gujarat
(Notice to be served through the
Chief Secretary to Government
of Gujarat, General Administration
Department, Sachivalaya,
Gandhinagar.)

2. Union of India
(Notice to be served through the
Secretary, Ministry of personnel,
pension and public grievance,
Department of personnel and
Training, New Delhi.)

3. Chairman
Union public service Commission
Bholpur House,
Shahjahan Road,
New Delhi.

.... Respondents.

(Advocate: Mr. Akil Kureshi)

ORAL ORDER

O.A.No. 337/1987

Date: 6.3.1998

Per: Hon'ble Mr. V. Ramakrishnan, Vice Chairman.

The applicant, a State Civil Service Officer of the state of Gujarat, is aggrieved by his non-selection and promotion to the IAS. He prays that the select list prepared for relevant period which includes a number of ^{his} ~~five~~ juniors who subsequently received promotion to IAS should be quashed.

2. We have heard the applicant who is appearing in person on earlier occasions. He had submitted that

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he has challenged certain adverse entries in his ACR dossiers before the Hon'ble High Court of Gujarat and that the decision of the High Court would be crucial for disposal of the present O.A. It was suggested to him that if he succeeds in the case before the High Court obviously the High Court would grant whatever consequential benefits flow from such decision and there was no need to keep this O.A. pending as admittedly there are certain adverse entries in his ACR dossiers. He has prayed for some time to consider the matter ~~and~~ had then taken a month's time and the matter was fixed on 4.3.98. He was not present on 4.3.98 and he is not present today also. We propose to dispose of the O.A. after considering the materials on record and after going through the selection committee report made available to us by the learned Standing Counsel and with the assistance we have received from Mr. Kureshi.

3. The main ground on which he is challenging the non-inclusion is that certain adverse remarks in his CR had been taken into consideration. He says that the ACR which was considered at the time of selection and which is the sole criterion for making selection is not lawfully and properly maintained and that he has challenged the validity of the same before the Hon'ble High Court of Gujarat. The State government in their reply statement deny the allegation that there was something wrong with the maintainance of ACR. It is also submitted by the respondents that the applicant was in the zone of consideration and was accordingly

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considered by the selection committee while preparing the select list for promotion of State Civil service ~~officers~~ ^{officers} to IAS. We have gone through the minutes of the selection Committee presided over by a Member of the UPSC held on 16th & 17th December, 1986. We find therefrom that the selection committee had considered 86 officials including the present applicant and then had prepared a list of over 50. We further find that this list was approved on 14.1.87. Keeping in view the number of vacancies, the zone of consideration was not excessive. The applicant was also considered and his name figured at Sr.No.34. However, he was held to be unfit and as such, he was not included in the select list.

4. The applicant has also contended that the selection Committee did not meet for a number of years and this was in contravention of the statutory and mandatory requirement. The respondents have brought out that so far as the State of Gujarat is concerned the meeting of the selection committee could not be convened regularly every year after 1973 because of different Court cases and also because of interim stay order passed by the different Court, at various points of time. The State Government have annexed a statement giving details of such Court cases. It is submitted that it was only possible for the concerned authorities to convene the selection committee meeting in June 1979 after conditional permission was obtained from the Gujarat High Court on 13.10.78. The Selection committee met in 1979 but the applicant was not considered as he was not within the zone of consideration. There was

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also litigation regarding the seniority list of Deputy Collector and that came to be settled only much later and an appeal was filed before the Hon'ble High Court and was decided on 6.4.86 after which a final list of Dy. Collector was circulated and soon thereafter the UPSC and the Central Government were moved for preparing the Select List. We therefore, find that there are valid grounds as to why during the relevant period the Selection Committee did not meet every year as is normally to be expected.

5. The applicant has only a right for consideration and cannot claim that merely because some juniors have been included in the Select List and promoted to IAS, he also should get the same benefit. He was considered but he was not included in the Select List for the relevant year. While preparing the list, the Selection Committee has gone on the basis of the overall performance as reflected in the ACRs and has ranked those officials who had got better grading ~~above~~ those with lesser grading. We find that the committee had kept those officials who had been given Very Good grading at the top on the basis of their inter se seniority enbloc over the officials who got the grading as Good. We also notice that a number of officials senior to the applicant who got "Good" grading were not included in the panel. The applicant has been duly considered but held unfit presumably because of his unsatisfactory service record as brought out by the respondents. As such, the recommendations of the Select Committee which were approved cannot be held to be arbitrary.

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6. We however note the statement of the applicant that the matter regarding the adverse entries in his ACR is pending before the Hon'ble High Court of Gujarat. If the applicant were to get any relief at the hands of the High Court in that case, the High Court will obviously extend to him whatever consequential benefits become due on that basis. Depending on the orders of the High Court in this regard and if it becomes necessary, it is open to him to pursue whatever remedies are available to him under the law.

7. With the above observation, the O.A. is dismissed. No costs.

P. C. Kannan

(P.C. Kannan)
Member (J)

V. Ramakrishnan

(V. Ramakrishnan)
Vice Chairman

etc.