

IN THE CENTRAL ADMINISTRATIVE TRIAUNAL
AHMEDABAD BENCH

O.A. No. 322 OF 1989, O.A.No.325 OF 1989,
~~O.A. No.~~ 326 OF 1989,& O.A.No. 356 OF 1989.

DATE OF DECISION 13-02-1992.

Shri B.S.Gahlot and Others Petitioner

Mr. M.R. Anand, Mr. Gohil &

Shri S.Tripathi Advocate for the Petitioner(s)

Versus

Union of India and Others Respondent

Shri Jayant Patel, Shri R.J.Oza, Advocate for the Respondent(s)

Shri A.H.Mehta and Shri P.R.Nanavaty

CORAM :

The Hon'ble Mr. A.B.GORTHI : ADMINISTRATIVE MEMBER

The Hon'ble Mr. R.C.BHATT : JUDICIAL MEMBER

(10)

O.A. No. 322 OF 1989

Shri B.S.Gahlot,
District Superintendent
of Police,
Palanpur.

O.A. No. 325 OF 1989

Shri Rajkumar Benjamin,
Dy.Commissioner of Police (Admn),
Shahibaug,
Ahmedabad - 380 004.

O.A. No. 326 OF 1989

Shri Biharidan Jivabhai Gadhvi,
Dist. Superintendent of Police,
Bharuch.

O.A. No. 356 OF 1989

✓ Shri R.C.Dimri,
Dist. Superintendent of Police,
Bhavnagar.

...APPLICANTS.

(Advocates: Mr.S.Tripathi)
Mr.M.R. Anand &
N.D. Gohil)

Versus

Union of India and
(Notice to be served through
the Secretary to the Govt.of India
Ministry of Home Affairs,
North Block,
New Delhi).

1. Union of India (Notice to be served through the Secretary to the Govt. of India, Ministry of Home Affairs, North Block, New Delhi).
2. The State of Gujarat,
(Notice to be served on the Addl. Chief Secretary to the Government of Gujarat, Home Department, Sachivalaya, Gandhinagar).
3. Mr.R.M.S.Brar,
D.I.G.,C.I.D.(Crime),
Ahmedabad.



4. Mr.J.Mahapatra,
D.I.G.(Admn.),
Ahmedabad.
5. Mr.K.Nityanandan,
S.P. C.I.D.(Crime),
Ahmedabad.
6. Mr.S.P.Khandawala
D.I.G.(Ahmedabad Range),
Ahmedabad.
7. Mr.O.P.Mathur,
Addl.Commissioner of Police,
(Sec.I), Ahmedabad.
8. Mr.Chitranjan Singh,
Addl.Commissioner of Police(Sec.II),
Ahmedabad.
9. M.D.Mina
Addl.Commissioner of Police,
Vadodara.
10. Mr.H.R.Gehlot,
Chief Security Officer,
G.E.B.,
Vadodara.
11. Mr.Maniram,
Joint Secretary (Home),
Gandhinagar.
12. Mr.K.R.Kaushik,
(On Deputation to I.P.C.L.,
Baroda),
Baroda.

... RESPONDENTS.

(Advocates : Mr.Jayant Patel for resp.no.1,
Mr.R.J.Oza, for resp.no.2,
Mr.A.H.Mehta and
Mr.P.R.Nanavaty for resp.no.3 to 12.)

JUDGMENT

Date : 13-02-1992.

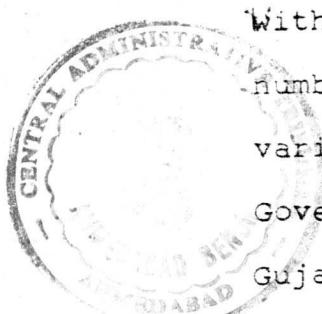
Per : Hon'ble Mr.A.B.Gorthi : Administrative Member

1. By this judgment we are deciding original applications no.322/89, 325/89, 326/89, and 356/89, as the facts contained in all these applications are almost identical except for a few minor variations in dates, and the questions of law raised therein and arguments advanced by the learned advocates for the parties are common, to all the four applicants. applications.

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2. The applicants namely Mr.B.S.Ghalot, Mr.R.Benjamin, Mr.B.J.Gadhvi, and Mr.R.C.Dimri, who belong to Indian Police Service (I.P.S. for short), feeling aggrieved by the action of Union of India, (Respondent No.1), in delaying the preparation of the select list for appointment ^{of} IPS and the consequential improper fixation of the year of allotment to them, have filed these applications under Section-19 of the ~~Central~~ Administrative Tribunals Act, 1985. The reliefs sought by each of them ^{are} being that their names should be included in the select list of the year between 1975-1980, against the available vacancies and that their year of allotment should accordingly be revised and refixed.

3. All the four applicants are those ~~who~~, in response to the call of the Nation, volunteered to join the army to safe guard the territorial integrity of the Country soon after the Chianese aggression in the year 1962. Having served in the army as Emergency Commission Officers for about five years or so, (E.C.O.s for short), they were released. With a view to rehabilitate such officers, ^{a certain} ~~such~~ a number of vacancies were kept reserved for them in various services, both in the Central and the State Governments. The applicants were selected ~~in~~ to the Gujarat State Police Service and joined the said service in the rank of DYS. Subsequently, they were selected for entry in to I.P.S. where they are now serving.

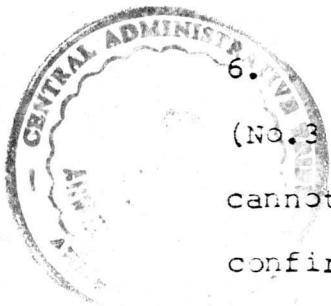


4. Some relevant and important dates in respect of each applicant may be stated at the outset so as to appreciate the facts of the case in proper perspective. Mr. B.S. Gahlot, joined pre-commission training for the army on 21.1.1964, and joined State Police Service on 15.12.1972. In view of his past service in the army, his deemed date of appointment as DYSP in the State Police Service was shown as 3.7.1967. He was promoted as D.S.P. on 6.9.1979, and was subsequently appointed to I.P.S. on 3.3.1982, having been placed on selected list on 29.9.1981. Mr. R. Benjamin, joined Pre-commission training on 20.7.1964, joined State Police on 15.12.1972, and was appointed to IPS on 26.12.1981. Mr. B.J. Gadhvi, joined Pre-commission training on 25.6.1965, joined State Police on 1/3.2.1973, was appointed to IPS on 26.12.1981. Mr. R.C. Dimri, joined pre-commission training on 29.7.1963, joined State Police on 26.8.1974, and was appointed to IPS on 3.3.1982. All the four applicants were given deemed date of appointment to State Police Service as in the case of Mr. B.S. Gahlot. Further they were all promoted as D.S.P. on 6.9.1979, and after due selection were brought on the selected list for entry into IPS on 29.9.1981.

5. The woes of the applicants began when their deemed date of appointment as DYSP in the State Police was shown as 3.7.1967, and not from the date of their joining pre-commission training in the Army. Subsequently, although they became due for confirmation as DYSP, as soon as they completed

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two years of service in the State Police, their confirmation was delayed till 13.10.1980, although on that date approval was accorded for their confirmation with retrospective effect from the date on which each of them completed two years service. Either as a result of this delayed approval of their confirmation or otherwise, their cases were not considered by the selection committee for entry into IPS as soon as they completed the requisite period of service, which is eight years, in the State Police Service. The selection committee met as late as in 1981, as a result of which they were brought on to the ~~selected~~ list only with effect from 29.9.1981. As a result of this inordinate delay in the process of selection for IPS, Mr. Benjamin and Mr. Gadhvi, were given the year of allotment as 1976, where as in respect of Mr. Gahlot and Mr. Dimri, it was 1977. The applicants contended that justice was not done to them as some of their earstwhile juniors have now become their seniors.



On behalf of the private respondents (No. 3 to 12), it has been stated that the applicants cannot have any grievance as their cases for promotion, confirmation, and appointment to the IPS have been processed in accordance with ^{the} relevant rules and regulations. They have already been given considerable advantage over others because of their past service in army. As regards the fixation of the year of allotment, it is related to the date of continuous officiation on a cadre ~~of~~ post or the date from which a candidate was brought on a ~~selected~~ list for ^{selection was done} entry into IPS, on behalf of the State of Gujarat.

the respondent No.2, it was brought out that the applicants who joined the State Police Service in the years 1972, 1973, and 1974, were given the benefit of their previous service in the army and were accordingly given deemed date of their appointment as DYSP, with effect from 3.7.1967, strictly in accordance with the existing rules. This antiquated issue in any case cannot be raised before the Tribunal at this stage, particularly when the Tribunal has no jurisdiction to question the decision taken by a ^{assumed} State Government. It has further been ascertained that since the applicant's cases for confirmation in the rank of DYSP could be finalised only on 13.10.1980, they could not be said to have become substantive DYSP's prior to that date and hence there was no irregularity even if the selection committee did not meet between 1976 and 1980. There was also a case pending before the Gujarat High Court, on account on which, seniority list of the State Police Officers including the applicants could not be finalised and without such a seniority list, the selection committee could not have been assembled. On behalf of the Union of India (respondent No.1), it has been stated that soon after the selection committee met and selected the applicants on 29.9.1981, they were appointed to IPS in the years 1981, and 1982. As regards the assignment of the year of allotment, the same is governed by Rule-3, of the IPS, (Regulation

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of seniority), Rules, 1954, according to which it is related to the date of selection or the date of continuous officiation in a senior post, whichever is later. Since the applicants were posted to officiate on such senior cadre posts during the years 1979/'81, they were correctly assigned the year of allotment as 1976 and 1977.

7. We may briefly summarise the important and essential issues raised by Shri M.R.Anand, learned counsel for the applicants : -

(i) The year of entry in the State Police Service should have been the same as the date of their entry into their pre-commission training in the army and not 3.7.1967, as was determined by the State Government.

(ii) The applicants having joined the State Police Service in the year 1972, 1973, and 1974, should have been confirmed as DYSP in the State Police Service as soon as they completed two years service in the said appointment. Their confirmation was delayed till 13.10.1980, although it was given retrospective effect from the dates from which they completed two years service in the State Police.

(iii) They ^{should} ~~could~~ have been declared as eligible for consideration by the selection committee for entry into IPS as soon as they completed eight years' service in the State Police.

(iv) The selection committee should have met in the year 1977, in which case they would have been brought under select list in the same year, and not in 1981, as ~~they~~ ^{has been} have done.

(v) They should have been assigned the year of allotment taking into consideration the date on which they ^{were} deemed to have been appointed to the State Police Service, i.e., 3.7.1967, and the date on which they completed eight years service in the State Police and not on the basis of the date of their continuous officiation in a senior post, or the date of their delayed selection.

8. On behalf of the respondents, an objection was raised at the very out-set about the maintainability of this application on the ground of delay and laches. The respondents contended that most of the issues raised by the applicants pertain to acts of commission and omission by the Gujarat State Government prior to 1981, and hence barred by limitation specified under Section-21, of the ~~Central~~ Administrative Tribunals Act, 1985. It is true that some of the grievances raised by the applicants pertain to the period prior to their selection for I.P.S. in 1981. However,

their main grievance in the final analysis is regarding the delay in ~~the~~ ^{from} selection ^{to I.P.S} and the resultant issue pertaining to the assignment of the year of allotment. They persistently approached the concerned authorities for ~~relief~~ ^{release} without any success. In fact, as alleged by the applicants, a final communication with regard to the fixation of the year of allotment in their case was not ~~raised~~ ^{received even at the time of} prior to the filing of these applications.

9. Learned counsel for the applicants drew our attention to the case of Shri Ramchandra Shankar Devdhar Vs. The State of Maharashtra, AIR, 1974, SC.P.259, wherein it was observed, *inter alia*, as under :


"The Rule which says that a Court may not inquire into belated or stale claims is not a rule of law but a rule of practice based on sound and proper exercise of discretion, and there is no inviolable rule that whenever there is a delay, the Court must necessarily refuse to entertain the petition. The question is one of discretion to be followed on the facts of each case."

10. We are conscious of the fact that when substantial justice and technical considerations are

pitted against each other, the case of justice gets preference. In any case, ^{our} ~~much~~ interference is now being sought by the applicants only in relation to the existing grievance which is the incorrect assignment of year of allotment based on their delayed selection by the selection committee. For this purpose and for a proper appreciation of ~~a~~ ^{the} alleged grievance, it will ^{now} be necessary to examine the correctness or otherwise of some of the decisions taken in their regard in the past.

11. The applicants contended that the date on which they joined pre-commission training in the army should have been deemed as the date of appointment as DYSP. This contention has been squarely refuted by respondent no.2, explaining the correct rule position. As there was no direct recruitment of DYSP in the State of Gujarat in 1964, and 1965, and the two candidates who were ^{directly recruited} ~~selected~~ in 1966, were regularly appointed with effect from 3.7.1967, the applicants' seniority too was fixed with effect from 3.7.1967, as per G.R. Home Department No.DYS-1073/6615-B, dated 8.5.1975. We, therefore, do not find any ~~impropriety~~ in the fixation of the deemed date of the applicants' joining the State Police Service as 3.7.1967.

12. The second grievance of the applicants is that although they became due for confirmation as soon as they completed 2 years of actual service in the State Police, their confirmation as Dy.S.P. was finally approved as late as on 13.10.1980. Although the said order gave them confirmation with retrospective effect i.e. from the date on which they completed 2 years services, they were not treated as substantive till the year of 1980 for want of publication of their confirmation. On this aspect, learned counsel for the respondent No. 2 has stated that the delay in publishing approval of the Govt. confirming the applicants was of a routine nature and cannot be questioned by the applicants. He further maintained that since their confirmation was ~~not published~~ till 13.10.1980, they could not have been treated as substantive appointees and hence there was no question of submitting their names to the selection committee for entry into I.P.S. We are not convinced with the line of argument taken on behalf of respondent No. 2. The State Government having unduly delayed the publication of the confirmation of the applicants, cannot be allowed to take advantage of the delay and claim that the applicants were not confirmed till 13.10.1980 and hence their names could not have been sent for selection.



Since the applicants have been confirmed in the rank of Dy.S.P. from the date on which they completed 2 years' service in the State Police, ^{1st legal date} they should be reckoned for all practical purposes as the date of their confirmation. In any case, this issue is not very much relevant because as per the relevant rules, the applicants would become eligible for selection for entry into I.P.S. only on completion of 3 years of service in the State Police.

I.P.S. (Appointment by Promotion) Regulation, 1955.

Rule 5(2) second proviso reads as under :

"Provided also that the Committee shall not consider the case of a member of the State Police Service unless on the first day of January of the year in which it meets he is substantive in the State Police Service and has completed not less than 8 years of continuous service (whether officiating or substantive) in the post of Deputy Superintendent of Police or in any other posts or posts declared equivalent thereto by the State Government."

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As already stated (supra), the applicants completed

8 years of service in 1985 commencing from the date on

which they ^{were} deemed to have been appointed as Dy.S.P.

in the State Police. They also became substantive as soon as they completed 2 years service in the years, 1974, 1975 and 1976. Accordingly, they all would become eligible for consideration by the Selection Committee in the year 1976 as by that time they had completed 8 years service and were holding substantive appointments of Dy.S.P.

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The contention of the applicants that they

became eligible for consideration by the selection

committee in the year 1972 i.e. when they completed

8 years from the date of their entering pre-commission

training in the army, to say the ^{last} ~~fallacious~~ ^{fallacious}. The ~~last~~

period of 8 years would account only from the date on

which they ^{were} deemed to have entered the State Police

Services i.e. 3.7.1967. In this context, an avoidable

controversy has also been brought before us. Vide Gazetteer

notification dated 17.6.1978, I.P.S. (Appointment by

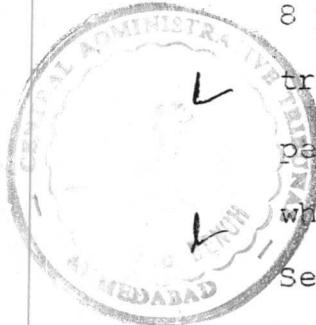
Promotion) Regulation, 1955 ^{The} ~~was amended~~ ^{was amended} as a result

of which released E.C.Os and S.S.C.Os would become

eligible for entering into IPS after 8 years of continuous

service subject to the condition that such officers

shall be eligible for consideration if they have completed



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not less than 4 years of actual continuous service on the first day of the January of the year in which the committee meets, in the post of Dy. Superintendent of Police or in any other post or post declared equivalent thereto by the State Government. Whether ~~the~~ ^{amended} said rules would act prospectively only or with retrospective effect was debated before us. In this context, our attention was drawn to the case of Dr. S. Krishna murthy v. Union of India (1989) 4 SCC 689 where the Hon'ble Supreme Court held that unless the act empowers the Central Government to make rules with retrospective effect, the rule made under the said act could not be given any retrospective effect.

Accordingly, ^{the} requirement of ~~an~~ ECO or SSCO completing 4 years actual continuous service would not apply to the applicants in ^{this} ~~their~~ case. They became eligible for consideration for entry into IPS when they completed 8 years service from the date of their deemed entry into the State Police Service as already stated.

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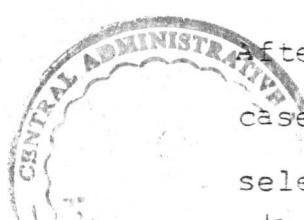
The most crucial issue raised by the applicants is that their names should have been projected for consideration by the selection committee which should have been held in the year 1977 in respect of Gahlot, ^{in respect of} ~~and~~ Benjamin in 1978, in respect of Gadhavi in 1979, and in respect of Dimri in 1979. Clubbing ~~of~~ all of them together with several others of the subsequent batches and placing their names before a selection committee in the year 1981 has caused them great prejudice as they have all been brought into the select list w.e.f. 29.9.1981. The respondents admit that no selection committee met in the years, 1977, 1978, 1979 and 1980. The reason advanced is that a case was pending in the High Court of Gujarat where

the seniority of some of the Dy.S.Ps. of the State including the applicants, was under challenge. The respondents further contended that as the applicants' confirmation was not announced until 13.10.1980, their names could have been projected for selection even if the selection committee ~~met~~ prior to 1981. We are not convinced with either of these two contentions. Admittedly, there was no court order preventing the respondents from constituting the selection committee during the period 1977 to 1980. Secondly, the applicants having become due for confirmation in the years 1974, 1975 and 1976 the State Government could not take ^{it} ~~plea~~ that due to ~~own complacency~~ ^{their} ~~uncompletion~~ in promptly proclaiming the confirmation of the applicants with effect from the due dates, they could deny the applicants ^{their} right to be considered for selection as soon as they completed 8 years of service in the State Police and became eligible for selection for entry into I.P.S. The fact remains that the applicants belonging to three different batches were clubbed together with some other officers belonging to subsequent batches and were all screened by the selection committee that was held in 1981. In this regard, the learned counsel for the applicants drew our attention to some ^{of the} ~~other~~ decided cases which may briefly be discussed here. In the case of P.N. Goswami v. Union of India SLJ 1988(4) (CAT) 229 - Gauhati bench of this Tribunal held as follows :

"In view of the discussion above, it must be held that the non inclusion of the names of the two applicants in the select list from 1973 onwards was not due to any fault of theirs. On the other hand, the concerned authorities of the State Govt., the Central Government and the UPSC been meticulous about the discharge their duties as enjoined by the promotion regulation, their names would have been in the select list at least for a substantial part of the period of their continuous officiation in cadre posts. It would therefore be

in the interest of justice to hold that their names should be deemed to be in the select list continuously with effect from a date on which the UPSC should be deemed to have approved the list prepared by the Committee on 31.12.1973."

In the case of V.P. Shah and N.P. Parekh v. Union of India decided in T.A.43/86 by C.A.T. Ahmedabad dated 2nd February, 1990 the question involved was the propriety of clubbing officers of the Gujarat Administrative Service who were due for selection for the 1974 to 1979, ~~same~~ under examination. The applicants in that case who were not selected for entry into I.A.S. challenged the clubbing of their names with those of the subsequent batches. In the aforesaid judgment by the Ahmedabad Bench, the case of Basava Sindivale decided by the Madras Bench of the Tribunal, reported in AIR 1987(2) CAT 275 also was considered. We, however, do not consider it necessary to refer to it as it pertains to the consideration of certain candidates for promotion within the department by a departmental promotion committee.



After considering all aspects of the case and relevant case law, the Tribunal observed that: "We hold that the select list of suitable officers prepared by the committee at its meeting held in 1979 under regulation of the I.A.S. (Appointment by Promotion) Regulation, 1955 is invalid to the extent that the cases of the petitioners have not been properly considered on account of illegal clubbing of vacancies and enlarging the zone of consideration and also by adopting the provision of I.A.S. (Appointment by Promotion) Regulation, 1955 as amended in the year 1977 in regard to the vacancies which arose prior to the amendment. We direct the respondents to constitute committee afresh and to consider the officers including the petitioners for inclusion in the select list for each year from 1974 to 1979 separately."

only those would have come within the zone of consideration in the individual years adopting procedure as per the regulations which stood prior to the amendment in 1977 for the vacancies which arose prior to the date on which the amendment took effect to consider the petitioners suitability and to appoint them into the I.A.S. if they are found suitable in any of the years notionally and to give them all consequential benefits arising out of such appointment."

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The respondents vehemently contended that ~~no~~ ^{ice} no injustice was done to the applicants just because they were clubbed together with some other officers of subsequent batches. In this regard, they have placed reliance on I.P.S. (Appointment by Promotion) Regulation 1955 Rule 5 (1) which reads as under :

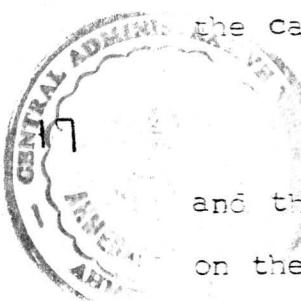
Rule 5(1) :

Each Committee shall ordinarily meet at intervals not exceeding one year and prepare a list of such members of the State Police Service as are held by them to be suitable for promotion to the service. The number of members of the State Police Service included in the list shall not be more than twice the number of substantive vacancies anticipated in the course of the period of twelve months commencing from the date of preparation of the list, in the posts available for them under rule 9 of the recruitment rules, or 5 percent of the senior posts shown against items 1 and 2 of the cadre schedule of each State or group of States, whichever is greater (Emphasis added).

As Rule states that the committee shall ordinarily meet at intervals not exceeding one year, it was contended that it was not mandatory for the committee to meet every year without fail. The applicants have no right to demand that the committee shall intervally. Relying on the judgment of this Bench of the Tribunal in V.P. Shah's case (su-^{ra}), the learned counsel for respondents No. 3 to 12 Shri Arun Mehta contended that the use of the term 'ordinarily' does not make it illegal not to hold

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selection committee meeting every year and that there is no right vested in the applicants ^{to demand committee} that the selection meeting ^{should} be held regularly. Learned counsel for the respondents has also drawn our attention to the case of S. Sarvanaperumal and others v. Union of India SLR 1988(5) CAT 148. In that case, the question involved was the number of officers to be included in the select list and it was held that 'rule 5(1) (supra) indicates that it has fixed only the maximum and not the minimum number to be included in the select list.' We do not see in what manner the judgment of the Tribunal in that case supports the respondents' contention. Another case cited by the learned counsel for the respondents ~~which~~ is Gopal Chandra v. Union of India in 1990(5) SLR 121 (CAT : Cuttack). In that case also, the issue involved pertained to ceiling laid down for the number of candidates to be brought on the select list and there was no reference in it to the holding of selection committee to consider the case of several batches at one time.



In the light of the facts of the instant case and the case law cited above, we hold that it was improper on the part of respondent No. 1 and 2 to place the names ^{subsequent} of the applicants alongwith several others of ~~junior~~ batches for consideration by the selection committee that was held in 1981. In this view that we are taking, we are fully supported by ^{the} judgment of the Tribunal ^(Supra) in the case of P.N. Goswami v. Union of India ~~SLR 1988(5)~~ After relying on the judgment of the Hon'ble Supreme Court in the case of N.L. Kapur v. Union of India 1974 SCC (L&S) 5, the Tribunal held as under :-

have relied heavily on the judgment of the Supreme Court in the case of M.L. Kapur v. The Union of India, in support of some of their contentions which are being soon discussed. At this stage we may only notice the Supreme Court's observations on the periodicity of the Selection Committee meeting. In interpreting regulation 5(2) about the selection Committee duty; to make an unrestricted choice of the post available persons, the Supreme Court had an occasion to refer to this periodicity for the selection committee meeting, and the court observed at paragraph 22 as :

" The selection committee has an unrestricted choice of the best available talent from amongst eligible candidates, determined by reference to reasonable criteria applied in assessing the facts revealed by service records of all eligible candidates so that merit and not mere seniority is the governing factor. A simple reading of the Regulation 5(2) clearly indicates this to be the correct view. The required number has thus to be selected by a comparison of merits of all the eligible candidates of each year. (emphasis added)"

In discussing on the periodicity of the review of the select list, the Supreme Court has observed at another place at paragraph 42 of the same judgment as :

"42. Proviso to Regulation 4(2) makes it abundantly clear that there must be a fresh select list 'every year' by making a review or revision of the previously existing select list. By Regulation 4(2), a person who has attained the age of 52 years shall not be considered as an eligible candidate notwithstanding the fact that he is a substantive member of the service. Then the proviso to Regulation 4(2) says that if his name has been entered in the select list for the previous year, he might be considered for inclusion in the fresh select list for the next year, even if he has passed the age of 52 years. When Regulation 5(4) says that the list prepared in accordance with Regulation 5(1) shall be reviewed or revised every year, it really means that there must be an assessment of the merits and suitability of all the eligible members every year. The paramount duty cast upon the Committee to draw up a list under Regulation 5(1) of such members of the State Civil/Police Service as satisfy the condition under Regulation 4 and as are held by the Committee to be suitable for promotion to the service would be discharged only if the Committee makes the selection from all the eligible candidates every year." (emphasis added).

There should, therefore, be no doubt that but for the exceptions, situations illustrated above where the holding of the meeting of the Selection Committee is rendered impracticable or where the holding of the meeting becomes an unnecessary and expensive formality, the list has to be prepared every year."

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Accordingly, as has ^{also} been directed by this Bench of the Tribunal in V.P. Shah's case (supra), we direct the respondent No. 1 to constitute a fresh selection committee solely to consider the applicants for inclusion in the select list of the ~~appropriate~~ year between 1977 and 1979 as deemed appropriate.

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A rather confusing plea was taken by the applicants with regard to the year of allotment in the relief sought by them in the applications. They prayed for a direction to the respondents to confer upon them 1964 as year of allotment in the State Police Service (underlined for emphasis). However, if we ~~is~~ look at the application in its totality, it would appear that their main grievance is with regard to the assignment of the year of allotment in the I.P.S. The learned counsel for the respondents opposed the ~~said~~ relief being sought by the applicants on the ground that no specific plea in clear and unambiguous ^{terms} ~~stand~~ was taken in the applications in this regard. Further, our attention has been drawn to I.P.S. (Regulation of Seniority) Rules, 1954. Rule 3 of the said rules which governs the assignment of the year of allotment reads as under :-

"Rule 3 : Assignment of Year of Allotment :

- (1) Every officer shall be assigned a year of allotment in accordance with the provisions herein after contained in this rule.
- (2) (Not relevant)
- (3) The year of allotment of an officer appointed to the service after the commencement of these rules, shall be
 - (a) Where the officer is appointed to the service on the results of a competitive examination the year following the year in which such examination was held;
 - (b) Where the officer is appointed to the service by promotion in accordance with rule 9f of the Recruitment Rules, the year of allotment of the junior most among the officers recruited to the

service in accordance with rule 7 of these rules who officiated continuously in a senior post from a date earlier than the date of commencement of such officiation by the former;

Provided that the year of allotment of an officer appointed to the service in accordance with rule 9 of the Recruitment Rules who started officiating continuously in a senior post from a date earlier than the date on which any of the officers recruited to the service, in accordance with rule 7 of those rules so started of officiating shall be determined adhoc by Central Government in consultation with the State Governments concerned;

Explanation 1.---- In respect of an officer appointed to the service by promotion in accordance with sub rule (1) of Rule 9 of the recruitment rules, the period of his continuous officiation in a senior post shall, for the purposes of determination of his seniority, count only from the date of inclusion of his name in the Select List, or from the date of his officiating appointment to such senior post whichever is later;"

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The aforesaid Rule 3(3)(b) read with explanation (1) leaves no room for any doubt or ~~subsequently~~ ^{speculation} as regards the method of fixation of the year of allotment.

In the case of an officer who is appointed to the IPS by promotion in accordance with rule 9 of the Recruitment Rules, as is the case with the applicants, their year of allotment will be the same as that of the junior most among the officers recruited to the service in accordance with rule 7 of the Recruitment Rules i.e. direct recruits to IPS, who officiated continuously in a senior post from a date earlier than the date of commencement of such officiation by the former. The explanation (1) to the said rules, further clarifies that for the purpose of determination of seniority, the period of continuous officiation in a senior post shall count only from the date of inclusion of the promote name in the select list or from the date of his offi

ers, in the s
annu ~~10~~ ¹⁰ years, ~~10~~ ¹⁰ years, after a gap of 10 years
their, the Govt. of India felt that
would be caused to them and accordingly
relevant rules. Consequently, the said of
assigned various years of allotment between
Learned counsel for the applicants, Shri M.F.
made a forceful argument that the chance to officiate
in a senior/cadre post is often fortuitous in nature
and does not appear to be guided by any rule or s
as can be seen by the fact that Shri B.J. Gadhvi
was confirmed as Dy.S.P. w.e.f. 1.2.1975 was promoted
to a senior post in an officiating capacity on 9.9.
whereas M/s. R. Benjamin and B.S. Gehlot who were
confirmed as Dy.S.P. on 15.12.1974 i.e. on a date
earlier than that of B.J. Gadhvi, could get the chance to
officiate in such a senior post w.e.f. 7.12.1974
21.11.1981 respectively only. He, therefore, argued
that the date of continuous officiation should have
relevance or at least should not be made the basis for
assigning the year of allotment. Howsoever attractive
and compelling the argument ~~is~~ ^{may be}, we are unable to accept it
because of the unambiguous wording of Rule 3 of the
Regulation of
I.P.S. (Seniority) Rules, 1961 and because no question
in the applications
was raised challenging the validity of the said rule.

Opposing this suggestion, learned counsel for the
respondents argued vehemently that it would not be
proper for the Tribunal to give a direction to the
Union of India to make a similar relaxation in the
application of the relevant rules to the applicants
as it was entirely for the Union of India alone, to
decide the said question. In this regard, Shri Arun
Mehta, learned counsel for the respondents No. 3 to 11

in respect of R. Benjamin 7.12.1980 ever is and R.C. Dimri 21.11.1981. The reason reply have brought out very clearly by relying a communication of the Govt. of India letter No. 15011/6/83-IPS-1 dated 31st March, 1989 addressed to the Secretary to the Govt. of Gujarat which is Annexure A-3, to the application. The said communication would show that the applicants were placed in the select list w.e.f. 29.9.1981 but their date of continuous officiation in cadre post was as already stated above. In view of the rule~~s~~ position, Shri R. Benjamin and B.J. Gadavi who officiated on senior cadre post w.e.f. 7.12.1980 and 9.9.1979 respectively had to be placed below one K.L. Meena, a direct recruit of 1976 batch, as officers of that batch held continuous officiating appointments in senior cadre post w.e.f. 1980-81. Similarly, V.S. Gehlot and R.C. Dimri who assumed senior cadre posts on continuous officiating basis w.e.f. 21.11.1981 had to be placed below one Upendra Singh, a direct recruit of 1977 batch, who assumed a senior cadre appointment on continuous officiation w.e.f. 8.11.1981. This explains the rationale as to how the applicants would be eligible for the years of 1976 and 1977 as the years of allotment. In view of this rule~~s~~ position, an attempt was made on behalf of the applicants to seek exemption to the applicants as was done in the case of some I.A.S. officers of Jammu and Kashmir cadre~~s~~ vide Govt. of India letter No. 14014/43/86-IAS(1) dated 30th July, 1987 which is the Annexure A-7 to the application. From this communication, it is apparent that in respect of the

attempted to place reliance on a judgment of the Hon'ble Supreme Court in the case of D.R. Nim, IPS Vs. Union of India 1967, SLR, 221. In the said judgement, the import of rule-3 of the Indian Police Service (Regulation of Seniority) Rules, 1954 governing the assignment of year of allotment has been elaborately explained. The learned counsel for the respondents further drew our attention to the case of D.D. Seri Vs. Union of India 1979 (3) SLR page, 679 wherein, the Hon'ble Supreme Court observed inter alia, as Under:

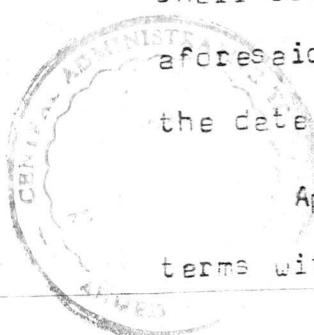
"Even assuming there was a power to condone the deficiency, the matter rested entirely in the discretion of the Government of India. When a decision in a policy matter like this is left to the absolute discretion of the Executive, we do not see how the courts can interfere and issue a direction to the Govt. of India to reconsider the matter afresh."

We, therefore, do not consider it appropriate to direct the Government of India to make any relaxation in the rules in respects of the applicants.

20. In the result, we allow the applications to the limited extent and direct respondent no. 1 to constitute a fresh selection committee to consider the cases of the 4 applicants in C.A. Nos. 322, 323, 324 and 356 of 1969 for inclusion of their names in the select list of the appropriate year between 1977 and 1979 and to give all consequential reliefs to the applicants including reconsideration of the year of allotment in their respect, if the same is warranted.

under the relevant rules. Respondent no. 1 shall convene the selection committee for the aforesaid purpose within a period of 6 months from the date of receipt of a copy of this judgment.

Applications are disposed of in the above terms without any order as to costs.



sd/-
(R.C. Bhatt)
member (T)

sd/-
(A.B. Goathi)
member (A)

Dated: 13th February, 1992.

Prepared by: Bishesh
18/2/92
Compared by: ACWGM
18/2/92
TRUE COPY 18/2/92

P. Chaitanya
Section Officer (J)
Central Administrative Tribunal
Ahmedabad Bench
19/2/92

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

NO
Seniority

M.A./100/93 in

O.A. No. /356/89
T.A. No.

B
24

DATE OF DECISION 26-3-93

R.C.Dimri Petitioner

Mr.S.Tripathi Advocate for the Petitioner(s)

Versus

Union of India & others Respondent

Mr.Jayant Patel for resp.no.1

Mr.R.J.Oza for resp.no.2

Advocate for the Respondent(s)

Mr.Nanavaty for resp.no. 3 to 12.

CORAM :

The Hon'ble Mr. R.C.Bhatt : Judicial Member

The Hon'ble Mr. V.Radhakrishnan : Admn.Member

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 ?

(25)

R.C.Dimri,
District Superintendent of Police,
Bhavnagar.

...applicant

(Advocate : Mr.S.Tripathi)

versus

Union of India &
(Notice to be served through the
Government of India, Ministry of
Home Affairs, North Block,
New Delhi.)

1. Union of India (Notice through
the Secretary to the Government
of India, Ministry of Home Affairs,
North Block,
New Delhi.)
2. The State of Gujarat,
Notice to be served on the
Additional Chief Secretary to the
Government of Gujarat,
Home Department,
Sachivalaya,
Gandhinagar.
3. Mr.R.M.S.Brar,
D.I.G., CRPF, Ajmer, e ID, (Crime)
Rajasthan, Ahmedabad
4. Mr.J.Mahapatra,
D.I.G., Junagadh Range,
Junagadh. (Admn) Ahmedabad
5. Mr.K.Nityandan,
S.P.C.I.D. (Crime)
Ahmedabad.
6. Mr.S.P.Khandwala,
D.I.G., (Ahmedabad Range),
Ahmedabad.
7. Mr.O.P.Mathur,
Addl.Commissioner of Police,
(Sec. I), Ahmedabad.

(J)

8. Mr.Chitranjan Singh,
D.I.G., Rajkot Range, Addl. Commissioner of Police
Rajkot. (Sec II) Ahmedabad

9. M.D.Mina,
Addl.Commissioner of Police,
Vadodara.

10. Mr.H.R.Gehlot,
Chief Security Officer,
G.E.B.,
Vadodara.

11. Mr.Maniram,
Joint Secretary, (Home)
Gandhinagar.

12. Mr.K.R.Kaushik,
(On deputation to I.P.C.L.-Baroda,
Baroda. ...respondents

(Advocate : Mr.Jayant Patel for resp.no.1,
Mr.R.J.Oza for resp.no.2
Mr.Nanavaty for resp.no.3 to 12.

O R A L O R D E R

M.A./100/93 in

O.A./356/89

Date: 26-3-93

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

None is present for the respondent

(original) no.1 who has filed M.A./100/93 for
extension of time.Hence, the application is dismissed
for default.


(V. RADHAKRISHNAN)
Admn.Member


(R.C.BHATT)
Member (J)

JX

DATE	OFFICE REPORT	ORDERS
16.4.93		<p>Heard learned advocate Mr. Mukesh Patel for Mr. Jayant Patel for the original respondents and Mr. N.D. Gohil, learned advocate for the original applicant.</p> <p>2. This application is made by the original respondents for restoration of the M.A. 100/93. This application shows that when the M.A came up for hearing before the Bench of this Tribunal on 26th March, 1993, the clerk of the learned advocate appearing for the respondents could not trace out the matter by mistake and therefore the learned advocate for the original respondents as well as the officers had not knowledge about the listing of the aforesaid application. The second ground given for absence of the applicant on that date is that the learned advocate also had some personal work and hence he could not come and he came to know about the dismissal of the M.A later on. Having perused the application for restoration, we accept the averments made therein and restore the M.A filed by the original respondents which was dismissed for default. M.A. 100/93 is restored. No order as to costs. M.A. 146/93 is allowed and is disposed of.</p> <p><u>M.A. 100/93 in O.A. 356/89</u></p> <p>Heard learned advocate Mr. Mukesh Patel for Mr. Jayant Patel for the original respondents and Mr. N.D. Gohil, the learned advocate for the original applicant.</p> <p>2. Today we have restored this M.A which was dismissed for default earlier in which the applicant i.e., original respondents has sought extension of time for implementing the order of this Tribunal upto 30th March, 1993. The learned advocate for the original applicant submits before us that the SLP filed by the original respondents before the Hon'ble Supreme Court is already dismissed. The time sought for extension</p>

DATE	OFFICE REPORT	ORDERS
		<p>is also over and hence the M.A has become infructuous and is dismissed. There is now no reason for the original respondents not to implement our judgment when according to learned advocate for the original applicant, the S.L.P. is dismissed.</p> <p>14.10.1971</p> <p>(M.R.Kolhatkar) Member(A)</p> <p>(R.C.Bhatt) Member(J)</p> <p>vtc.</p>

Date	Office Report	Order
6-12-1993		<p>Heard Mr. K.K.Shah. Affidavit filed by Mr. K.K.Shah may be taken on record. Copy has been furnished to Mr. Jayant Patel ^{who is present}. Call on 22-12-1993.</p> <p><i>DR</i></p> <p>(V. Radhakrishnan) Member (A)</p> <p><i>*ASE</i></p> <p>As the learned Member of the Bench is not available, the matter is adjourned to 18.1.1994.</p> <p><i>DR</i></p> <p>K. RAMAMOORTHY MEMBER (A)</p>
22/12/93		
18.1.1994.		<p>At the request of Mr. Mukesh Patel for Mr. Jayant Patel and with the consent of Mr. N.D. Gohil, adjourned to 08.2.1994. Rejoinder, if any, may be filed before that date with copy to the advocates for the respondents.</p> <p><i>DR</i></p> <p>(K. Ramamoorthy) Member (A)</p> <p>(N.D. Patel) Vice Chairman</p> <p>ait</p>

Date	Office Report	Order
26-11-93		<p>Advocates for both the parties are present. Mr. Jayant Patel, advocate for respondent no. 1, produces a copy of the Govt. of India's order dated 25-11-93. He states that this order, in terms, represents full compliance with the judgement of the Tribunal dated 13-2-92. The copy of the order dated 25-11-93 is also given to the advocate for the applicants, who wants to file a reply on the point as to whether the order constitutes compliance. He also requests that select list on which the order is based should be produced to appreciate whether the judgement of the Tribunal has been genuinely complied with. The advocate for the Union of India states that the select list is a confidential document. He is directed to keep it ready for perusal of the Tribunal at the next date. Time is granted to the advocate for the applicant to file a reply with a copy to the advocate for the Union of India and State of Gujarat.</p> <p>Put up on 6-12-93.</p> <p><i>Nes</i> (M.R.C.BHATT) Member (J)</p> <p><i>MR Kolhatkar</i> (M.R.KOLHATKAR) Member (A)</p> <p>SSH</p>

Date	Office Report	ORDER
23-6-94		<p>At the request of Mr. Mukesh Patel and with the consent of Mr. K.K. Shah for Mr. N.D. Gohil, adjourned to 8-7-94.</p> <p style="text-align: center;">Q</p> <p>(K. Ramamoorthy) Member (A)</p> <p>(N.B. Patel) Vice Chairman.</p> <p>*AS.</p>
8-7-94	<p>This matter may be placed before the Vice Chairman and Hon'ble Mr. Ramamoorthy, Member (A), as the main matter is heard in part before them.</p> <p>(N.B. Patel) Vice Chairman</p>	<p>The other Hon'ble Member of the Bench is not available. At the request of Mr. K.K. Shah for Mr. N.D. Gohil, adjourned to 14-7-1994.</p> <p>(N.B. Patel) Vice Chairman</p>

Date	Office	ORDER
25-4-94		<p>At the request of Mr.Jayant Patel and with the consent of Mr.Gohil and other advocates adjourned to 3-5-94.</p> <p>(K.Ramamoorthy) Member (A)</p> <p>(N.B.Patel) Vice Chairman</p>
3-5-94		<p>AS*</p> <p>At the request of Mr.Mukesh Patel, adjourned to 17-6-94.</p> <p>(K.Ramamoorthy) Member (A)</p> <p>(N.B.Patel) Vice Chairman</p>
17-6-94		<p>ait</p> <p>Applicants and their advocates not present. The other Hon'ble Member of the Bench is not available. Adjourned to 21-6-94.</p> <p>(N.B. Patel Vice-Chairman</p>

Date	Office Report	ORDER
14/7/94		<p>Heard the learned advocates for the parties. Order reserved.</p> <p><i>R</i> (K.Ramamoorthy) Member (A)</p>
9-7-94		<p><i>N.B. Patel</i> (N.B. Patel) Vice-Chairman</p> <p>aab</p> <p>Today, Judgement pronounced in open court by the Bench consisting of (1) Hon. N.B. Patel, Vice Chairman and (2) Hon. K. Ramamoorthy Member (A)</p> <p>C. A. is disposed of.</p> <p><u>Prulferom</u> <u>Court Officer I</u></p>

DATE	OFFICE REPORT	ORDERS
16.4.93		<p>Heard learned advocate Mr. Mukesh Patel for Mr. Jayant Patel for the original respondents and Mr. N.D. Gohil, learned advocate for the original applicant.</p> <p>2. This application is made by the original respondents for restoration of the M.A. 100/93. This application shows that when the M.A came up for hearing before the Bench of this Tribunal on 26th March, 1993, the clerk of the learned advocate appearing for the respondents could not trace out the matter by mistake and therefore the learned advocate for the original respondents as well as the officers had not knowledge about the listing of the aforesaid application. The second ground given for absence of the applicant on that date is that the learned advocate also had some personal work and hence he could not come and he came to know about the dismissal of the M.A later on. Having perused the application for restoration, we accept the averments made therein and restore the M.A filed by the original respondents which was dismissed for default. M.A. 100/93 is restored. No order as to costs. M.A. 146/93 is allowed and is disposed of.</p> <p><u>M.A. 100/93 in O.A. 356/89</u></p> <p>Heard learned advocate Mr. Mukesh Patel for Mr. Jayant Patel for the original respondents and Mr. N.D. Gohil, the learned advocate for the original applicant.</p> <p>2. Today we have restored this M.A which was dismissed for default earlier in which the applicant i.e., original respondents has sought extension of time for implementing the order of this Tribunal upto 30th March, 1993. The learned advocate for the original applicant submits before us that the SLP filed by the original respondents before the Hon'ble Supreme Court is already dismissed. The time sought for extension</p>

DATE	OFFICE REPORT	ORDERS.
		<p>is also over and hence the M.A has become infructuous and is dismissed. There is now no reason for the original respondents not to implement our judgment when according to learned advocate for the original applicant, the S.L.P. is dismissed.</p> <p><u>M.R.Kolhatkar</u> <u>Reed</u></p> <p>(M.R.Kolhatkar) Member (A) (R.C.Bhatt) Member (J)</p> <p>vtc.</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD.

OA/TM/RA/CA No.

CA/

19/193 in

32
OA/356/8

Rameshchandra

No. NO Golul

APPLICANT (S)

Omni.

COUNSEL

VERSUS

1101

RESPONDENT (S)

COUNSEL

DATE	OFFICE REPORT	ORDERS
10-6-93		<p>This matter to be placed before Ind court today.</p> <p><i>DR</i> (V. Radhakrishnan) <i>NP</i> (Member (A)) <i>N.B. Patel</i> (Vice Chairman)</p>
17-6-93		<p>Pl. issue notice in Form No 1</p> <p><i>Arrd</i> <i>17-6-93</i> <i>to WD</i></p>
27/8/93	<p>Signature of the official/officer who has received received/filed the documents from page no. 69 to 77 not found. Moreover, the documents are not attested as true copy.</p> <p><i>J. master</i> <i>27/8/93.</i></p> <p>S.O. (S) These pages are relevant D.B.C) to the cases</p> <p><i>Arrd</i> <i>27/8/93</i></p> <p><i>Abha</i> <i>27/8/93</i></p>	

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD.

(33)

OATH/MERIT/CA No.

CAF 19/193 MAP/350/88

Rameshchandras
APPLICANT (S) DineshMr. N. D. Solvi
COUNSEL

VERSUS

UO/1

RESPONDENT (S)

COUNSEL

DATE	OFFICE REPORT	ORDERS
		Issue notice to resp. m/s with a copy of order dtd 1.9.93 a/c 7.10.93
10.11.93	R.P.O.D. received from Rd. No-1	10.11
10.12.93	Affidavit filed by petitioner	10.12
23.12.93	Reply filed by Shri. J. Venkatesh	10.12
3.2.94	Rejoinder filed by Shri N.P. 23.12	
	Gohil	
		3.2

OFFICE REPORT

ORDERS.

0/6/93

Heard the learned advocate Mr.N.D.Gohil.

Learned advocate Mr.N.D.Gohil also in all these C.A.'s. It is very strange that the respondents have not cared to comply our order even during period given to them and even though, the SLP's filed by the respondents before the Hon'ble Supreme Court against the decision given by this Tribunal in O.A./356/89 was dismissed.

We, therefore, take cognisance of this application. and we issue notice of contempt against the officer, named as respondent no.1 in C.A. as to why the contempt proceedings should not be taken against him. Notice to be issued in ~~fix~~ from no.1 to be sent to a said officer by this Registry. Returnable by 14/7/93.

Respondent to file an affidavit in reply.

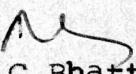
Rec'd subi:

- 1) Notice issued on 3/7/93
- 2) R.P.A.D. filed availed
- 3) Reply comd.

Appmtn filed by
ms. Farhat Patel
Amrit Patel
13/7/93

(M.R.Kolhatkar)

Member (A)


(R.C.Bhatt)

Member (J)

*SS

Date	Office Report	ORDER
14/7/93		<p style="text-align: center;">O R D E R</p> <p><i>by applicant</i></p> <p>This M.A. is filed to join the state of Gujarat as respondent no.2. in C.A.. Learned advocate for respondent no.1 has no objection, if M.A. is allowed. Hence, M.A. is allowed. The applicant is permitted to join the State of Gujarat as respondent no.2. in C.A. M.A. is disposed of.</p> <p>2. The respondent no.1 is produced the list of documents with a copy to the learned advocate for the applicant. List is taken on record today.</p> <p>3. Learned advocate for the parties are present. Learned advocate for respondent no.1 submits that the respondent no. 1 has taken steps to see that the Meeting of the Select Committee is conveyed but it is for UPSC to fix up the date for such meeting and therefore, he prays for time. Learned advocate Mr.Gohil for the applicant rightly submits that the respondent no.1 has taken much time in trying to comply with the order of the Tribunal but till today the order is not complied. We, therefore, direct the respondent no.1 to take all the possible steps within</p>

possible steps within 3 weeks to see that the
order is complied.

Call on 5th August, 1993.

MR Kolhatkar

(M.R. Kolhatkar)

Member (A)

res
(R.C. Bhatt)

Member (J)

Date	Office Report	ORDER
5.8.93		<p>Heard learned advocates. The applicant to amend the contempt application as directed by us in our order dated 14th July, 1993 and on amendment of the C.A, the notice be issued to the added respondent No.2, State of Gujarat, to give reply to the C.A cause ^{and} regarding ^{for} the documents and affidavit produced by the respondent No.1. The learned advocate for the respondent No.1 submits that the respondent No.1 has been trying its best to see that the Review Selection Committee convened at the earliest as directed by this Tribunal to Respondent No.1 and ^{in response} State of Gujarat is also asked to furnish the details to enable the UPSC to convene the meeting. The learned advocate for respondent No.1 submitted that the necessary because as per the letter dated 27th July, 1993 from UPSC to the State of Gujarat, the C.R.dossiers were needed. C.R.dossiers of seven State Police officers, whose cases are to be considered are not at all be available. We wanted to hear the State of Gujarat as there is delay in this matter. At the moment, the amendment is carried out. In view of the amendment by the applicant, the notice be issued to Respondent No.2 to file reply on above points. The copy of this order also ^{to} be annexed with the notice be issued.</p>

2 Copies Please

*AS

Date	Office Report	ORDER
		<p>respondent No.2 so that the respondent No.2 may be able to know the seriousness of the contempt application. Notice returnable by 30th August, 1993.</p> <p>Respondent No. 2. Direct service to respondent No.2 is permitted. The documents ^{are} produced today is taken on record. The applicant to carry out the amendment in after C.A and on carrying out this amendment the notice also be issued to the State of Gujarat in above terms returnable by 30th August, 1993.</p> <p><i>M.R.Kolhatkar.</i> <i>resul</i></p> <p>(M.R.Kolhatkar) Member (A)</p> <p>(R.C.Bhatt) Member (J)</p> <p>vtc.</p>

DATE	OFFICE REPORT	CA/22/93 in OA/325/89 ORDER
------	---------------	-----------------------------

01.09.1993.

Mr. K.K. Shah, for Mr. N.D. Gohil, for the applicants is present. Mr. Jayant Patel for respondent no.1 files an additional affidavit-in-reply in CA/19/93, CA/20/93, CA/21/93, and CA/22/93. The same may be taken on record. Mr. Jayant Patel who appears for respondent no.2, is directed to file a memo of appearance. Respondent no.2 has also filed an affidavit-in-reply today. Respondent-State Govt. has stated that necessary materials and records have been sent by State Government to U.P.S.C. The advocate for the applicants urges that the holding of the selection committee exclusively to consider the cases of the applicants brooks no further delay. Both the respondents no.1 and 2, have stated and have also argued that a modality for getting over the issue of missing Annual Confidential Reports (A.C.R.'s) of some officers has been worked out but pray for atleast three months' time for the holding of the meeting of Selection Committee. In the light of pleadings and arguments of respective parties and keeping in view the directions incorporated in our judgement dated 13th Feb. 1992, read with the order in clarification of the judgement in response to RA/9/92, and others, delivered on 08th June, 1992, we direct that the respondent no.1, in consultation with U.P.S.C. should arrange to convene the meeting of the Selection Committee in terms of the aforesaid orders of the Tribunal within a period of six weeks from today, namely 15th October, 1993.

Reply filed
 M.R. Kolhatkar
 14-10-93

Call on 15th Oct. 1993.

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

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

Note	Office Report	Order
15.10.93		<p>Mr.K.K.Shah for Mr.N.D.Gohil</p> <p>for the applicant is present. None was initially present for respondent no.2.i.e. State of Gujarat, but ^{later} the advocate for the State, Shri D.M.Patel appeared. Mr.Jayant Patel is present for respondent no.1 and he has filed an affidavit in reply, dated 13.10.93 to the effect that the meeting of Review Selection Committee in pursuance of this Tribunal's order dated 13.2.92 has taken place on 7th and 8th October, 1993 at Ahmedabad, vide para-5. It is further stated that the Tribunal's orders, dated 13.2.92 and 08.6.92 have been implemented in letter and spirit and therefore, that notices against the Union of India may be discharged.</p> <p>2. Mr.K.K.Shah, learned advocate for the applicant invites our attention to the operative portion of the judgement ^{viz. to consider} to the effect that the cases of the applicants for inclusion of their names in the select list in the appropriate year between 1977 and 1979 and to give all consequential reliefs to the applicants including reconsideration of the year of allotment in thier respect, if the same is warranted. According to him, the order of the Tribunal cannot be said to have been</p>

complied with unless this portion of the order is complied with by the respondents in letter and spirit and there was no question discharging the notices for contempt against the respondents at this stage. Learned advocate for the applicant also argued that the selection committee was meant to be a special select committee only for considering the cases of the applicant officers in question and no other officers should have been considered in the meeting of the selection committee and if they are so considered, it would have to be considered the contempt of this Tribunal. Learned advocate for the respondent no.1. argues that this interpretation put by the learned advocate for the applicant is not correct and that the selection committee has considered the matter in accordance with the orders of this Tribunal. He could not say anything more without prejudging the decision of the meeting.

3. We have considered the matter carefully. First, of all, we must express our displeasure over the attitude of the state government, through out the correct competent proceedings, which has not cared to ensure prompt, punctual and consistent representation. We expect that state government to be more careful in ensuring compliance with the orders of the Tribunal. So far as the point raised by the applicant is concerned, we have also noted that the applicant in his contempt petition had prayed that pending admission, hearing and final disposal of this C.A., the proceedings of promoting juniors to petitioner to the post of Special I.G. of 1971 to 1975 batch should be stayed. We note that we had not accepted

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-3-

BATE	OFFICE REPORT	ORDER
		<p>this prayer of the applicant in terms because the order of the Tribunal dated 13.2.92 read with order and R.A.11/92, dated 8.6.92 & is clear in that point. In particular, we note the following observations made in this Tribunal's order dated 8.6.92.</p> <p>" The respondents are therefore, directed to keep the provisions of Rule 5(2) in view while determining the question of inclusion of the applicants' names in the select list of the appropriate year".</p> <p>We also do not consider it appropriate that the respondents should disclose the minutes of the ;proceedings of selection committe at this stage. We would like to clarify that the order of the Tribunal is not taken as complied with unless the action takne by the respondent no.1.&2 in terms of this Tribunals order is issued through appropriate government orders and made known to the applicants and all others concerned.</p> <p>4. The question of time to be allowed to the respondents for full /</p>

fall to be decided. Advocate for the respondent no.1. has argued that at least 6 weeks time is required for minutes of proceedings to be finalized by the UPSC and another 4 week to issue orders by Government of Gujarat in consultation with all concerned. In our view what is involved here viz. the finalization of the minutes of proceedings and issue of appropriate government orders should not take more than 6 weeks. The matter is fixed on 26.11.93 when we expect respondents no.1.&2 to show to us the formal government orders in compliance with Tribunal's directions.

Call on 26.11.93.

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

M.R.Kolhatkar
(M.R.KOLHATKAR)
Administrative Member

sssh

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

C.A. 19/93
 in
O.A. NO./356/89
Telxxno.

DATE OF DECISION 29.7.1994

Shri Rameshchandra Dimri

Petitioner

Mr. N. D. Gohil

Advocate for the Petitioner (s)

Versus

Union of India & others

Respondent

Mr. Jayant Patel

Advocate for the Respondent (s)

Mr. Bhamhani

CORAM

The Hon'ble Mr. N.B. Patel

: 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 ?

No

: 2 :

Shri Rameshchandra Dimri,

I.P.S.,
I.G.P. Inte. Office,
Meghaninagar,
Ahmedabad

Applicant

Advocate Mr. N.D.Gohil

versus

1. Union of India, notice to be served through,
Shri N.N.Vohra,
The Secretary to the Govt. of India,
Ministry of Home Affairs,
North Block,
New Delhi.

2. The State of Gujarat, notice to be served through:
The Secretary, to the Govt. of Gujarat,
Home Department, Sachivalaya,
Gandhinagar.

Respondents

Advocate Mr. Jayant Patel
Mr. Bhambhani

ORDER

IN

C.A.19/93

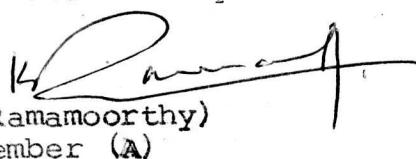
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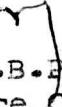
O.A.356/89

Date: 29.7.1994

Per : Hon'ble Mr.N.B.Patel, Vice Chairman

After hearing the learned advocates, we find that there is no wilful defiance of the order of the Tribunal because there is a bonafide dispute regarding interpretation of the judgment in question. Contempt proceedings are, therefore, closed and notice is discharged. C.A. stands disposed of accordingly.


(K.Ramamoorthy)
Member (A)


(N.B.Patel)
Vice Chairman

aab