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OA-624/94-

(A)

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	5.9.2001	<p>Learned counsel for the petitioner and his Associates are absent. There is also no request made on their behalf seeking adjournment. In this 1994 matter pleadings have been completed long ago and therefore, it is not possible to drag on the matter indefinitely, more so in the absence of any request for adjournment. We have, therefore, heard Shri S.B. Jena, learned Addl. Standing Counsel appearing on behalf of Res. 1 and 3 and Shri K.C. Mohanty, learned Govt. Advocate appearing for the State of Orissa. Private Res. 4, 6, 7 and 8 have filed their counter, but none appeared for them when called. The other private respondents have not filed their counter. We have perused the pleadings. The departmental respondents in their counter have opposed the prayer of the applicant. No rejoinder has been filed.</p> <p>In this O.A. the petitioner has prayed for quashing the notification dated 20.7.1994 (Annexure-1) in so far as it relates to promotions of Res. 4 to 8 to Indian Administrative Service Cadre. He has also prayed for quashing the order dated 1.6.1994 vide Annexure-3 rejecting his representation for promotion to I.A.S. in respect</p>	<p>Process fee of Rs. 50/- has been filed by the petitioner's counsel on 10.11.94 for brother's order.</p> <p>Notice may be sent to opp. parties by Regd. post with A.D.</p> <p>It is also mentioned that the record has been received on 16.11.94 (at 3 P.M.)</p> <p>A.D. Brown R-1, R-3, R-7 &amp; R-8 not returned. Notice issued to R-5 has returned as unserved with remark "no such addressee".</p> <p>opp. party has no response.</p> <p>For brother's order.</p>

J. J. M.

Indian Administrative Service

All India Service Cadre. He has also prayed

for quashing the order dated 1.6.1994

vide Annexure-3 rejecting his representa-

tion for promotion to I.A.S. in respect

For brother's order.

17/11

13/11/94

S. D.

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		<p>of 1994-95 vacancies. His third prayer is for <del>promote</del> direction to departmental respondents to give promotion to the applicant to I.A.S. w.e.f. the date his juniors were so promoted with consequential financial and service benefits.</p> <p>For the purpose of considering this petition it is not necessary to go into too many facts of this case. The admitted position is that for filling up of the posts of 11 substantive vacancies to I.A.S. by way of promotion from the State Civil Services a meeting of the Selection Committee was held on 21.3.1994. The applicant, who is a Member of State Civil Service was eligible and was due for promotion to be considered in such meeting of the Selection Committee and as a matter of fact his name was included in the list of officers coming within the zone of consideration being placed at Sl. No.17. The grievance of the applicant is that even though he has not been recommended for appointment his juniors B/Shri Makardhwaja Hota, S.N.Tripathy, N.P.Mohapatra, Kartik Chandra Das and Sarbeswar Mohanty were given promotion in order at Annexure-1. The applicant has further stated that in</p>	<p>16.12.94</p> <p>One week time granted to file counter.</p> <p>Put up on 23.1.95.</p> <p>Registrar.</p> <p>A.D. from R-3 has not yet returned.</p> <p>Notice from R-5 has returned as unserved with demand and such address.</p> <p>3 counter by R-4 &amp; R-6 has been filed without memo of appearance.</p> <p>4 Opp. No. 1, 2, 5 and opp. No. 9 to 15 have no appearance although notices have duly served on them.</p> <p>5 Adj. to 23.1.95 for further enclosures.</p> <p>20/1</p> <p>13/04/95</p>



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the meeting of the Selection Committee his service records were not correctly assessed and in the context of the above he has come up in this petition with the prayers referred to earlier.

Before considering the averments made by the petitioner in the O.A. it is necessary to note that the order at Annexure-1 is not an order of appointment by way of adhoc promotion to the I.A.S. ~~years, as~~ in respect of those five officers, who names have been mentioned above. The appointment to I.A.S. by way of promotion or even by Direct Recruitment is done through a Presidential Order. Rules provide that after a person has been included in the select list he can be allowed to officiate against a cadre post. In order at Annexure-1 some of the officers who have been included in the select list have been allowed to officiate in the cadre posts. Therefore, the prayer of the applicant for quashing the order at Annexure-1 on the ground these private respondents have been given adhoc appointment to the cadre of I.A.S. is held to be without any merit and the same is rejected.

The crux of the present dispute

Order dt. 24.1.95

A.D. Form R-3 has not been returned in the mean time more than one month has ~~in the mean time~~ elapsed from the date of issue of office notice on R-3 is therefore held sufficient as per Rule-15 of C.A.T. Rule of Practice, 1993.

2) Two weeks time is granted to take steps for fresh service of office on R-5.

3) Records 4 & 6 be informed whether they want to prosecute the case in person or through any advocate.

4) Time till now is granted to file counter by this records.

*S*  
Registrar

Steps for issue of fresh notice to R-5 has not yet taken. Counter by R-2 has been filed. For further orders.

*J. S. S.*

*Pat*  
6/2

Registrar

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		<p>as the applicant has stated is that with regard to assessment of his records of service made by the Selection Committee in their meeting held on 21.3.1994. Admittedly in that meeting the C.Rs of the officers coming in the zone of consideration for 1988-89 to 1992-93 were taken into consideration along with the overall service records. Applicant has stated that the Selection Committee had to take into consideration the CRs of officers who had got four outstanding entries out of the above five years, even though for one year the assessment is good or very good. He has stated that by this norm <del>the</del> four junior officers have good or very good entries for four years and only for one year they have outstanding records. He has further stated that he has been given outstanding entries in three out of five years and for one year half outstanding and average in respect of another year. In view of this it has been stated that his case has not been properly assessed by the Selection Committee.</p> <p>Law is well settled that a Tribunal cannot reassess the CRs and substitute the <sup>its</sup> assessment same in place of assessment as arrived at by the Selection Committee. Hon'ble Supreme</p>	<p>Or. dt. 24.1.95</p> <p>As per direction dt. 24.1.95 letter may be sent to opp. No. 4 &amp; 6 by post</p> <p>Babu 11/2</p> <p>Shukla 1-2-95 S.O.</p> <p>Or. dt. 7-2-95</p> <p>Time granted till 17-2-95 to file a memorandum by call on 17-2-95</p> <p>Registered.</p>

S. Jom.

assessment  
Jom.



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D.A. 624/74

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		<p>Court in a series of decisions have held that how to categorise an officer in the light of relevant records and rules and <sup>what</sup> <del>the</del> norm would apply in making assessment are matters which fall exclusively within the ambit of the Selection Committee and the Tribunal cannot make a conjecture as to what the Selection Committee should have done or what <del>the</del> norm should have been applied. In view of this it is not open for us to reassess the CRs of the applicant.</p> <p>The Union of Public Service Commission in their counter have stated that the applicant has been assessed as very good and those who have been included in the select list after being adjudged very good are officers senior to the applicant in the State Civil Services. The officers who are junior to the applicant in the State Civil Services and have been included in the select list have all been assessed as outstanding. Under the rules outstanding grades are to be ranked above maintaining their inter se seniority being followed by the officers ranked as very good maintaining again inter se seniority in the State Civil Services. Respondents have stated</p>	<p>Co. dt. 7-2-75</p> <p>One week time granted to take fresh steps for service of notice on R-5.</p> <p>Steps reg. issue of fresh notice to R-5 has not yet taken by the applicant's counsel.</p> <p>Mr. S.K. Nayak has appeared for R-4 &amp; R-6. R-1, &amp; R-9 to R-15 have no appearance. countered by R-1 &amp; R-9 to R-15 has not filed for further orders.</p> <p><u>R-15</u> 14/2</p> <p>Bench</p>

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		<p>that even though officers adjudged as verygood were included in the select list they were all seniors to the applicant in the State Civil Services and the applicant even though adjudged as verygood could not have been included in the select list because of statutory limitation on the size of the select list.</p> <p>In view of the discussions held above we find <sup>that</sup> no <sup>illegality</sup> has been committed by the Selection Committee in not selecting the applicant to the cadre of I.A.S. The O.A. is held to be without any merit and the same is, therefore, rejected. No costs.</p> <p><i>[Signature]</i> MEMBER (JUDICIAL)</p> <p><i>[Signature]</i> VICE-CHAIRMAN 5/9/2001</p>	<p>Order dt 17/2/95-</p> <p>None appears. Two weeks time is granted to have steps for fresh review on R-5.</p> <p><i>[Signature]</i> Registrar.</p> <p>Steps for fresh review on R-5 not taken.</p> <p>For brother orders.</p> <p><i>[Signature]</i> 26/3</p> <p>to order</p> <p>Order dt 27.6.95-</p> <p>Two weeks time is granted to have fresh steps for review of order on R-5 failing which place before the Bench for orders.</p> <p><i>[Signature]</i> Registrar</p>