

(A)

M/s. S. K. Pathak  
S. Parida  
S. K. Motapahri  
CAT/3/11

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**CUTTACK BENCH, CUTTACK**

O.A./T.A./B.A. No..... 870 ..... 199

Bishnu Bocad Motapahri ..... Applicant(s)

Versus ..... Union of India & others ..... Respondent(s)

Sr. No.	Date	Order with Signature
	5.12.96 06.12.96	REGISTER <i>SG</i> Registrar
1.	9.12.1996.	<p>In this O.A. the applicant prays that the respondents be directed to appoint him in the I.P.S. Cadre on promotion with effect from 1995. In that year his case was kept in a sealed cover by the D.P.C. though there was a vacancy in the promotion quota in the I.P.S. Cadre. In the interim prayer, the applicant prays for a direction not to prepare a fresh select list till the case of the applicant is finalised.</p> <p>2. Brief facts of the case are that the applicant was eligible for consideration to the appointment/promotion to the I.P.S. Cadre and there were several vacancies in the promotion quota which is 1/3rd of the total cadre strength. According to a news paper report (Annexure-1), he understood that he was selected and he was at serial number 3. The first</p>
		<p>870 for 1855 P. f/1nd.</p> <p>Defects removed For Regn. please D. P. C. 06.12.96 SOL</p> <p>6.12.96. Registrar <i>SG</i></p> <p>For Admin. I.O. Pl. <i>SG</i> 6.12.96.</p> <p>Bench.</p>

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1 dt.9.12.96  
continued.

and the second in the list have been appointed but his case was kept in the sealed cover. In para 4.5. it has been stated that a fresh select list was prepared in February, 1996 and the applicant was kept at serial No.1. It has been positively averred that his case was kept in the sealed cover because some criminal complaints were filed against him, one of which resulted in his conviction. In the first criminal case i.e. I.C.C. No.56/89 the applicant was convicted by the Judicial Magistrate, First Class, Bhubaneswar under Section 323 of the I.P.C. In the other complaint case i.e. I.C.C. No.395/95 the learned S.D.J.M., Bhubaneswar by order dated 31.1.96 refused to take cognizance against the applicant. So far as I.C.C.No.56/89 is concerned, learned Sessions Judge, Puri in Criminal Appeal No.10 of 1995 set aside the order of conviction by Annexure-3 dated 4.11.96, and thereby acquitted the applicant.

3. On 11.11.96 the applicant made a representation to the Director General-cum-Inspector General of Police, Orissa, to move the General Administration Department of the Government of Orissa to promote the applicant to the I.P.S.Cadre. This representation is annexed to this Original Application as Annexure-5. On 14.11.96 the applicant made another representation to the Special I.G. of Police(Administration), Orissa. The D.G. of Police is impleaded here as respondent No.6. On 28.11.96 the applicant made a further representation to the Commissioner-cum-Secretary to Government of Orissa, Home Department, who is impleaded as respondent No.5. In the normal circumstances, there would have been no need to give any direction for the disposal of these representations because they were recently filed. But learned counsel for the applicant brought into focus two important aspects. First, once he missed the chance in 1995 when he alleges that he was in the

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		<p>4. Even so learned counsel wanted a direction for disposal of the representations because any delay shall totally deprive the applicant of his just dues. Even here promotion to the I.P.S.Cadre is an ultimate fruit of a long chain of processes. The most important first step is opening of the sealed cover. It is here I agree that the applicant's claim is more secure. This O.A., therefore, can be disposed of by a simple direction to the respondents for quick disposal of the representations and for this purpose, opening of the sealed cover. In the interest of securing justice to the applicant, this first step is necessary.</p>	
		<p>5. Having been acquitted by the competent court of law, the applicant now seeks to enforce the right of opening the sealed cover. This demand is justified in view of the Hon'ble <del>SC</del> Supreme Court's decision in <i>Union of India v. K.V.Jankiraman</i> (AIR 1991 SC 2010 at pages 2019 and 2020). This step is a preliminary</p>	

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1 dt.9.12.96 continued.		<p style="text-align: center;">- 4 -</p> <p>first step of conferring on him or considering him for selection to the I.P.S. provided the sealed cover contains a positive recommendation. This step is the necessary first step mandated after the applicant is completely acquitted from the charges for which, as the averments show, his case was kept in the sealed cover. In this view of the matter, respondents 5 and 6 to whom representations have been addressed shall in consultation with and approval of respondents 3 and 4 open the sealed cover adopted in preparing the select list for the year 1996 and take such consequential action as is necessary within a period of four weeks from the date of receipt of a copy of this order, provided there has been no other proceeding pending against the applicant and the order of acquittal has been accepted. The O.A. is accordingly disposed of.</p> <p>Copy of this order be sent to the respondents 5 and 6 by special messenger at the cost of the applicant and to the other respondents by usual process, as requested by the counsel for the applicant.</p>	<p>DJ.</p> <p><i>(Signature)</i> ( N. Sahu) Member (Administrative).</p> <p>Received Rs 70/- (Rs Seven only) for cash forwarded cost of sp. messenger to Respondents No. 5 and 6 v/s Smt. 6 and 7.</p> <p>Received (CR/NSF) 16.12.96 at 13.00 hrs Cashier</p>