

Spd 102 Case
quadrant
4/8/93

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.524/93

DATE OF DECISION : 27-8-1993

A.Abdul Hameed,
Deputy Commandant,
Kerala Armed Police,
III Battalion,
Thiruvananthapuram.

.. Applicant

Mr.N.Nandakumara Menon

.. Adv. for applicant

V/s

1. Union of India, rep. by
The Secretary, Home
Department, New Delhi.
2. The State of Kerala rep. by
the Chief Secretary,
Secretariat, Trivandrum.
3. The Selection Committee for
selection to the IPS
constituted under Regulation III
of IPS (appointment by
Promotion) Regulations 1955,
represented by the
Chairman, UPSC,
Shahjahan Road, New Delhi.
4. The UPSC represented by
its Secretary, UPSC,
Shahjahan Road,
New Delhi.

.. Respondents

Mr.George C.P.Tharakan, SCGSC
Mr M.B.Kurup, Advocate General &
Mr.D. Sreekumar
Mr.M.R. Rajendran Nair

.. Adv. for respondents 1,3&4.

.. Adv. for respondent 2.

.. Adv. for party in MP No.
1140/93.

CORAM:

The Hon'ble Mr.N.Dharmadan, Judicial Member

The Hon'ble Mr.R.Rangarajan, Administrative Member

JUDGEMENT

MR. N.DHARMADAN, JUDICIAL MEMBER

Applicant while working in the State Service as
Deputy Commandant in the IIIrd Battalion of the Kerala
Armed Forces, a post equivalent to Superintendent of
Police, filed this application on 25.3.93 invoking our

jurisdiction under Section 19 of the Administrative Tribunals Act, 1985. It was later amended. The prayers are as follows:-

- "(1) This Hon'ble Court may kindly be pleased to direct the Respondents to consider the applicant for promotion to the I.P.S. cadre in relaxation of the Clause 5(3) of the IPS (Appointment by Promotion) Regulations 1955.
- (2) This Hon'ble Tribunal may kindly be pleased to issue appropriate directions to the first respondent to extend the period of service of the applicant by six months from 1.4.1993 in the light of Annexure-M order of recommendation issued by the Director General of Police and in the peculiar facts and circumstances of the case.
- (3) This Hon'ble Tribunal may kindly be pleased to declare that the applicant was entitled to be considered for promotion to the IPS cadre under the Indian Police Service (Appointment by Promotion) Regulation, 1955 in the meeting of the Selection Committee, held in March, 1993.
- (4) This Hon'ble Tribunal may kindly be pleased to declare that the applicant was entitled to be considered for promotion to the IPS Cadre under the Indian Police Service (Appointment by Promotion) Regulation, 1955 in the meeting of the Selection Committee held in the year 1990."

2. The facts are not in dispute. The petitioner was promoted to a post equivalent to Dy.S.P., viz; Assistant Commandant on 18.6.81 as per Annexure-A order. Though he was given provisional promotion as Deputy Commandant on 5.9.84 with rank No.5 in Annexure-B list, he was regularised in service as Assistant Commandant with effect from 1.3.80 as per an order, Annexure-D, dated 19.12.1990. Annexure-E is the final select list of Assistant Commandants fit for promotion as Deputy Commandant. It was published on 16.2.91. His confirmation in the post of Assistant Commandant was given effective from 1.11.81 by an order, Annexure-G, which was passed only on 29.10.91. Thus, it took about ten years for the Government of Kerala to regularise his service in the post of Assistant Commandant. This is the crux of the issue raised by the applicant.

According to him, since the confirmation was unduly delayed without any acceptable reason, he was never considered for grant of IPS. In the meantime, several of his juniors were conferred IPS. His representations are remaining unanswered for all these years. Applicant has earned in his credit several good service entries during the last thirty ~~three~~ years of service. Annexures-0 to X are good service entries received by him. Annexure-Y is a certificate of Police (Special Duty) Medal received from the President of India. He received Police Medal for meritorious service from the President of India in the year 1991. The applicant completed eight years of service as Assistant Commandant on 18.6.89 and his case ought to have been placed for consideration for promotion to IPS cadre in the years 1990, 1991 and 1992.

3. Applicant's date of superannuation is 31.3.93. But the Government by an order, Annexure-A1, dated 31.3.93 extended the period by three months considering his meritorious and "outstanding" service presumably to get the benefit of selection for IPS cadre for the current year particularly when the Director General reported "Department is short of senior officers to execute and supervise the training of 4400 Recruit Police Constables". Before the expiry of the said period when Government refused to give further extension, this Tribunal after considering his request directed the Government to extend his service upto 1st July, 1993 and posted the case for early hearing. Accordingly, the case is before us for hearing. The applicant is continuing in service even after superannuation as per the order of the Tribunal dated 28.6.93.

4. Applicant is an outstanding police officer. There is no adverse entry or remarks in his ACR during his long 33 years of service in the Department. Annexures-0 to X and Y are testimonial for his service and efficient work in the Department. Certificates of merits were also received by him from President of India. He was also a regularised Assistant Commandant w.e.f. 1.3.80. He is serial No.10 in Annexure-D list of regularised Assistant Commandants dated 19.12.90. The reason for the long delay as indicated in the proceedings is the delay in convening DPC. It is stated "the DPC which met on 28.11.90 prepared the select list of Armed Inspectors fit for promotion as Assistant Commandant in the Armed Police Battalions for the years 1978 to 1990 and Government, as per Government order read above have approved and published the same in the official gazette. Now the Government are pleased to regularise the promotion of Armed Police Inspectors as Assistant Commandants w.e.f. the dates noted against their names in column 4". On the basis of this order, according to the applicant, he is eligible for consideration for promotion to IPS on 18.6.89 for he completed eight years of service as Assistant Commandant which is equivalent to Dy. S.P. Though eligible, he was not duly considered at the appropriate time. His disadvantage was that he was in the Armed Force and his confirmation was ordered only on 19.12.90. According to him, but for this handicap, he would have been promoted to the cadre of IPS long ago.

5. He has pointed out that several of his juniors were promoted to IPS cadre because of the delay in regularisation and confirmation of the applicant in the cadre of Assistant Commandant. One Shri G.Gopakumar, who became Dy.S.P. (Execution) only in 1982, was promoted to the IPS cadre, because he was confirmed in the cadre of Dy.S.P. earlier than the applicant. Serial No.6. V.Santha-

ram, 11. K.N.Bal, 13. S.K.Viswambharan, 14. A.Mohammed Khan, 15. Harry Xavier and 19, G.Gopakumar in Annexure-A3 seniority list of senior grade Dy.S.Ps. as on 1.1.88 are juniors to the applicant. All of them were already selected by the committee which met in March 1990, March 1991 and March 1992.

6. Annexure-A2 is seniority list of Superintendents of Police (Non-IPS) as on 1.1.1988. Serial No.7, M.Bhagyanathan Nadar who assumed as S.P. on 14.9.84 is senior to the applicant who was regularised as Dy. Commandant, a post equivalent to S.P., as per a delayed order Annexure-F dated 20.2.91. According to the applicant, he ought to have been placed just below serial No.7 and above serial No.8, John P.Thomas, who assumed charge as SP on 7.4.86. All officers from serial No.8 to 20 were juniors to the applicant. They were promoted to the cadre of IPS during 1990, 1991 and 1992 without considering the case of the applicant. His case was not considered only because of the long delay in regularisation and confirmation in the cadre of Assistant Commandant and Deputy Commandant. Annexures-D and F are two orders dated 19.12.90 and 20.2.91 respectively by which applicant's position in the above cadres were regularised. Because of the delayed regularisation of the applicant in the cadre of Assistant Commandant and Deputy Commandant he was not included in the respective seniority list in Annexures-A2 and A3 of Superintendent of Police (Non-IPS) and Senior Grade Dy.S.Ps. respectively as on 1.1.88.

7. The reason for the above delay as indicated in Annexure-D order is the default and delay of the Government to convene DPC for promotion as Assistant Commandant in Armed Police Battalion for the years 1978 to 1990. The argument is that for this administrative delay of the

Government, an officer, like the applicant cannot be allowed to suffer.

8. The allegations of the applicant about the administrative delay and latches on the part of the Government and on account of the same the applicant was not considered for promotion to IPS cadre for the years 1990, 1991 and 1992, there is no answer except the following statement in the reply:-

" It may be noted that the applicant has started continuous officiation against a post equivalent to Dy.S.P. (Asst. Commandant) with effect from 18.6.1981. The date of birth of the applicant is 16.3.1938. The applicant has been confirmed in the State Police Service with effect from 1.11.1981 as evidenced by Annexure C order dated 29.10.1991. Therefore he had completed 8 years of continuous service in a post equivalent to Dy.S.P. on 18.6.89. So by virtue of the continuous length of service the applicant would have been eligible to be considered by selection committee which met in March 1991, for which the eligibility criteria was to be determined with reference to 1st April 1990. though the applicant was eligible considering the length of service, he was not sufficiently senior to be included in the zone of consideration during that period as there were enough seniors to the applicant who were eligible for consideration by the selection committee and to be included in the zone of consideration.

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It is submitted that the applicant was however considered by the selection committee which met in March 1992 and his name was included in the zone of consideration as serial No.9. But the applicant was not included in the select list prepared by the selection committee based on overall assessment of the officers in the zone of consideration.

So far as the Selection Committee which met in March 1993 is concerned, it is submitted that the eligibility criteria is to be determined as on 1.4.1992. The applicant had completed 54 years of age as on 1.4.1992 and therefore he was not to be considered by the selection committee in March 1993. "

9. So the contention of the respondents is that the applicant was not sufficiently senior for consideration and only senior officers were alone considered for grant of IPS in 1990 and 1991. He was considered in 1992 but the committee did not select him for appointment in the IPS cadre after considering the overall assessment. The contention ⁴appears to be acceptable, ⁴but the fact remains that

the correct seniority list if prepared after Annexures-D and F as if, they were passed before 1.1.88, the applicant's position would have been much better and above than nearly a dozen senior officers, who were actually juniors to the applicant and who got promotion in IPS cadre between the year 1990 and 1992. The respondents have really missed this crucial aspect while attempting to defend their case on the basis of the principle of seniority.

10. It is under these backdrop that we have to examine the case of the applicant. Admittedly, he is an efficient and sincere officer who deserves promotion in the light of merit certificates Annexures-0 to Y produced to support his case of eligibility. In fact, Director General recommended extension of his service even after superannuation considering his meritorious service. Hence, having regard to the facts and circumstances of this case but for the administrative delay in convening the DPC for promotion of the applicant to the post of Asst. Commandant as admitted in Annexure-D, the applicant would have been promoted to the IPS cadre much before a dozen of his juniors as stated above. It is really an injustice to the applicant to deny this benefit at the fag end of his official career.

11. In this connection it is to be remembered that police officers in the state service before their retirement aspire for promotion to the IPS cadre for they may get a further lease of three years with much more power and prestige. A denial of this benefit to an able, efficient and deserving officer is really an injustice which should be prevented, if possible after a careful examination of competing claims to seniority with reference to the relevant rules providing for promotion.

12. As per the provisions in IPS (Appointment by Promotion) Regulations 1955, a state police service officer becomes eligible for consideration by the selection committee only on completion of eight years of continuous service as Dy.S.P. or an equivalent post, provided he is substantive and has not completed 54 years of age, the eligibility criteria being determined as on the first day of April of the year in which the committee meets. The selection committee will consider a State Police Service Officer only if he satisfies the eligibility criteria and his name comes within the seniority group after observing the statutory restrictions based on the number of available vacancy.

13. Though the applicant satisfied all the statutory conditions in the normal course as on 18.6.1989, the administrative delay as indicated above and as seen from Annexures-D & F prevented him from getting a chance for consideration by the committee in the years 1990, 1991 and in the year 1992 his consideration was not in the proper perspective and placing in regard to his seniority position in the list which was placed before the committee.

14. In K.Ramachandra Panicker vs. Chief Secretary to Government of Kerala & Others (O.A.876/92), a position analogous to the instant case was considered. ~~Well~~ observed as follows:-

"11. The applicant became senior to nearly half a dozen officers on the basis of the orders of the Government. But the benefits of the Govt. orders could not be appreciated by the committee which met on 16.3.92 because of the failure of respondents 1 to 3 to place him with the proper rank in service among other eligible officers. ...

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This ranking really prejudicially affected the applicant. Had he been placed immediately below Shri K.N.Bal with the grading as "Very Good" the applicant's chance of selection for promotion to the IPS cadre would have been much more brighter. In fact the committee selected two persons below Mr.K.N.Bal viz. Shri Gopakumar and Shri P.V.Thomas. There is no acceptable explanation by the respondents 1 to 3 for their failure to place the applicant immediately below Shri K.N.Bal in the list when it was placed before the committee for consideration and grant of IPS cadre in spite of directions by the High Court. "

15. That case was allowed with certain observations. The applicant's case is that he is entitled to be ranked below serial No.7, ~~but above SL~~ No.8, Shri Jacob P.Thomas in Annexure-A2 seniority list of Superintendent of Police (Non-IPS) as on 1.1.88 or above Shri G.Gopakumar in Annexure-A3. However, since the position in the instant case is more or less same as in OA 876/92, we are inclined to follow the same for rendering justice to the applicant.

16. The preparation of list of suitable officers as provided in Rule 5 prescribing the procedure for fixing the seniority and placing the list before the committee should be scrupulously observed. The Supreme Court in Ramana Dayaram Shetty vs. International Airport Authority of India & Ors., (1979) 3 SCC 489, quoted with approval the principle stated by Mr. Justice Frankfurter in Viteralli vs. Saton (359 U.S. 535):-

" An executive agency must be rigorously held to the standards by which it professes its action to be judged Accordingly, if dismissal from employment is based on a defined procedure, even though generous beyond the requirements that bind such agency, that procedure must be scrupulously observed.... This judicially evolved rule of administrative law is now firmly established and, if I may add, rightly so. He that takes the procedural sword shall perish with the sword."

17. Applicant has a more forcible submission based on a recent judgment of this Tribunal in Paul Leslie vs. union of India and others, 1990 (7) SLR 312. In Kerala State a system was followed for preparing seniority of state service officers for consideration by the committee for promotion to IPS cadre projecting general executive officer enblock above officers in Armed Battalion and Telecommunication ~~and~~ on the ground officers in general executive are better qualified for promotion to IPS cadre. This system was exposed and deprecated by this Tribunal in the above case and held:-

"14. We would, however, direct that a copy of this judgment should be sent to the Chief Secretary to the government of Kerala, Secretary, Department of Personnel of the Govt. of India and the Secretary, Union Public Service Commission, so that the injustice being perpetuated by listing the eligible State Police Service Officers in three different blocks as if the eligibility list is also the seniority list of State Police Service Officers belonging to three different Wings, is discontinued forth and the State Government advised to prepare an integrated seniority list of eligible State Police Service Officers belonging to different Wings, on the basis of the length of continuous service as Dy.S.P., keeping the inter-se seniority within the same Wing undisturbed....."

18. This judgment is dated 31.12.90. It is not clear whether the mandate in the judgment was scrupulously followed by the respondents in the matter of preparation of seniority lists of police officers for consideration by the committee for the year 1991 and 1992. However, the learned Advocate General submitted that integrated seniority list was prepared before preparation of panel for consideration of the committee for the above two years. We accept the same. We have also perused the files produced by the learned Advocate General. Integrated seniority list has been prepared. But the seniority list considered is that of the list as on 1.1.88 without reference to the orders at Annexures-D & F which are crucial for the applicant for his eligibility for consideration by the committee for both the years. No current seniority list, either integrated or otherwise had been prepared by the respondents after Annexures-D & F. So much so, the applicant's legitimate claim for consideration to promotion for IPS for two years, 1991 and 1992, had not been placed before the committee in accordance with the procedures laid down in Rule 5 of the IPS (Appointment by Promotion) Regulations.

19. In Paul Leslie's case a senior officer like the applicant was denied proper and fair consideration because of the fact that he was in Telecommunication Wing. The Tribunal after careful consideration of his case observed:-

"By being placed at the bottom of the eligibility list, which was not seniority list, the applicant was completely left out of the select list, because of his wrong placement in the eligibility list which was wrongly projected as seniority list."

20. Even though an integrated seniority list was prepared for considering seniority of officers for placing before the committee in the year 1991 and 1992, so far the applicant is concerned, his position became far below in that list because of delay in confirmation in the feeder category as seen from Annexures-D & F. The respondents never attempted to prepare a correct ^{integrated} seniority list after Annexure-D and before consideration by the committee in the years 1991 and 1992. Consequently, the applicant's name was completely left out in the year 1991 and in the year 1992 he got only a wrong placement in the eligibility list. So much so, he was not considered properly and fairly in accordance with the procedure rules laid down for promotion to IPS cadre.

21. Under these circumstances, we are of the view that the dictum laid down in Paul Leslie's case squarely applies to the facts in this case. Admittedly, applicant's seniority in the cadre of Asst. Commandant was not taken into consideration in the light of Annexures-D & F for preparation of seniority list at the appropriate time before preparing the eligibility list for consideration by the committee in 1991 and 1992. This has seriously prejudiced the applicant and having regard to ~~these~~ facts, we have to presume that the "applicant was completely left out of the select list" for no fault of him as held by this Tribunal in Paul Leslie's case. Hence, he deserves the same treatment. Had he been given correct placement, he would have got promotion to IPS before Shri Jacob P. Thomas for according to the applicant he ought to have been placed

below Shri M.Bhagyanathan Nadar, serial No.7 and above Shri Jacob P.Thomas, serial No.8 in Annexure-A2 seniority list. This benefit was illegally and arbitrarily denied to him. The learned Advocate General has no explanation for the denial of the proper placement of the applicant except a submission that there is no prayer in the application for granting any relief based on selection to IPS cadre for the years 1991 and 1992.

22. According to us, this is only a super technical argument which cannot be accepted in the light of the settled proposition of law that the Court/Tribunal can mould the relief suitably to give appropriate reliefs to the aggrieved parties to render justice to them. We have considered this question in Francis Xavier vs. Union of India & others (O.A.K. 170/87) and held as follows:-

"8. The learned counsel for the respondents also raised a technical contention that this petition has been filed only with a prayer for a declaration that the petitioner is eligible to be considered for recruitment as driver and for issue of appropriate direction to consider his application. Hence, this Tribunal cannot accept the request of the petitioner to regularise his service taking into consideration his long period of continuous service under the second respondent. On the facts and circumstances of this case, we are not inclined to accept this technical contention. The question of granting such of the reliefs as are suitable and appropriate on the facts of a given case is the prerogative and power of the courts in which the parties have very little jurisdiction. The famous Latin Maxim is "ubi jus ibi remedium". Long ago Dicey wrote:-

"The law ubi jus ibi remedium, becomes from this point of view something more important than a mere tautological proposition. In its bearing upon constitutional law, it means that the Englishmen whose labours gradually formed the complicated set of laws and institutions which we call the Constitution, fixed their minds far more intently on providing remedies for the enforcement of particular rights or for averting definite wrongs, than upon any declarations of the Rights of Man or Englishmen... The Constitution of the United States and the Constitution of the separate States are embodied in written or printed documents, and contain declaration of rights. But the statesmen of America have shown an unrivalled skill in providing means for giving legal security to the rights declared by American Constitutions. the rule of law is as marked a feature of the United States as of England."

In our jurisprudence if an injustice is done to the party, the court will normally be reluctant to turn down the prayer for the issue of high prerogative writs on the negative plea of 'alternative remedy' or other technicalities if it is satisfied about it. Because of the above mentioned dictum, the court will always endeavour to mould the reliefs for giving justice to the parties taking into consideration the facts and circumstances of each case and it is being done only for rendering justice to the parties. The Hon'ble Supreme Court in AIR 1981 SC 1653 (B.R.Ramabhadriah, appellant vs. Secretary, Food & Agriculture, Department, Andhra Pradesh and others, respondents) held as follows:-

"The Court can undoubtedly take note of changed circumstances and suitably mould the relief to be granted to the party concerned in order to mete out justice in the case. As far as possible the anxiety and endeavour of the Court should be to remedy an injustice when it is brought to its notice rather than deny relief to an aggrieved party on purely technical and narrow procedural grounds."

Hence, we are not inclined to non-suit the petitioner in the light of the technical contention raised before us by the learned counsel for the respondents."

In the light of the above position, we do not see any force in the submission made by the learned Advocate General. There are necessary averments and materials to grant the applicant reliefs in the interest of justice.

23. This application was filed only four days before the meeting of the committee for consideration of candidates for IPS for the year 1993. After hearing the applicant and respondent No.1 we passed an interim order on 25.3.93 directing consideration of the applicant also provisionally subject to the outcome of this original application. The learned Advocate General produced before us the minutes of the committee meeting held on 29.3.93. We have perused the same. Applicant is No.4 in the list of five being the maximum number of officers which can be included for the year depending on the vacancies. No.2 in the list was included subject to grant of integrity certificate. Therefore, actually he is No.3 and sure to get absorbed in the vacancies which arose in the state before his superannuation. But the respondents are raising a technical contention to deny him appointment even if he is

eligible for the same. According to them, on the basis of the date of eligibility criteria viz. 1.4.92, the applicant has completed 54 years and hence the State Government decided ~~not~~ to place his case for consideration by the committee. Nevertheless, his case was considered only on the basis of the interim order and hence he cannot be promoted to the cadre of IPS.

24. Having regard to the fact that the applicant was completely left out for consideration in the year 1991 and denied proper consideration giving proper placement in the eligibility list for the next year, the respondents ought to have granted exemption or relaxation of the rule for a favourable treatment of the case of the applicant for the current year. However, Shri Nandakumara Menon, learned counsel for the applicant submitted that the case of the applicant would come within Rule 5(3) of IPS (Appointment by Promotion) Regulation, 1955. It is extracted below:-

"5(3) The Committee shall not consider the cases of the members of the State Police Service who have attained the age of 54 years on the first day of April of the year in which it meets:

Provided that a member of the State Police Service whose name appears in the select list in force immediately before the date of the meeting of the committee shall be considered for inclusion in the fresh list, to be prepared by the Committee, even if he has in the mean while attained the age of 54 years.

Provided further that a member of the State Police Service who has attained the age of fiftyfour years on the first day of April of the year in which the Committee meets shall be considered by the Committee, if he was eligible for consideration on the first day of April of the year or of any of the years immediately preceding the year in which such meeting is held but could not be considered as no meeting of the Committee was held during such preceding year or years. "

25. From a reading, ~~the~~ the rule applies to a case when committee meeting is not held during the preceding year of the year in which the candidate attains 54 years and becomes ineligible for consideration. In the instant case since

there were regular meetings in every year, the submission of the learned counsel cannot be accepted in that form. But, we are clear in our mind that for no fault of the applicant, his case was not properly placed by the Government before the committee for consideration in accordance with law. Examining the question in this perspective, according to us, there is nothing wrong, on the facts and circumstances of this case, in coming to the conclusion that there was no committee meeting for the years 1991 and 1992 for consideration of the case of the applicant causing injustice to the applicant. The respondents can legitimately give such an interpretation for undoing the injustice done to him and render justice in view of his selection as per the interim order, notwithstanding the fact that he attained the age of 54 years as on 1.4.92 and debarred from consideration.

26. In Paul Leslie's case this Tribunal has taken the extreme step of issuing a direction to the following effect:-

"We allow the application to the extent of directing the respondents, to promote the applicant to the Kerala cadre of IPS, with effect from the date of promotion of respondent-5, Shri K.T.Michael, with all consequential benefits of seniority, arrears of pay, allowances, etc. from the date of such promotion."

27. But we are satisfied after a careful perusal of the files leading to the selection and appointment of officers to the cadre of IPS for the year 1992-93 that applicant was prejudicially affected due to the wrong ranking and placement in the list of eligible candidates. We find that the petitioner has been confirmed on 1.11.1981. If that date is taken for preparing the integrated seniority list as observed by this Tribunal in Paul Leslie's case, the applicant's seniority position in the list of eligible State Police officers would come within the field of choice

for appointment to IPS and he will be between serial Nos.5 and 6, namely Mr. K.N.Bal and Mr.P.V.Thomas. From the minutes of the meeting and the annexure thereof it is seen that the applicant has been graded as 'Very Good' after an overall assessment. If his seniority was correctly taken into account placing him immediately below Shri K.N.Bal (serial No.4) in the list of eligible candidates, he should have been included in the select list for the year 1992. In that case the select list for the year 1992-93 should have been as follows:-

1. Mr.K.N.Bal
2. Mr.G.Gopakumar
3. Mr.V.Santharam (SC)
4. Mr.A.Gopinathan (SC)
5. Mr.A.Abdul Hameed (petitioner)

In this view of the matter the applicant was denied an opportunity to get promotion in the year 1992-93. According to us the applicant was denied the benefit of promotion on account of the fact that he has not been given due place in the integrated seniority list; he was given only a lower position which resulted in his removal from the select list, though he was graded as 'Very Good' and came within five candidates to be kept in the panel as indicated above.

28. In these circumstances we are of the opinion that the applicant is eligible to be promoted and appointed to the cadre of IPS for the year 1992-93 itself after including his name in the select list for the year 1992-93. Accordingly, we direct the respondents to appoint him to the IPS cadre if possible by deleting the last name in that list or treating him as a person included in the select list with bottom position without dislocating and maintaining the position of the selection ^{as} such with his name and adjust his name as first man in the next select list as per the

instant instructions and give him appointment to the cadre of IPS.

29. As far back as on 31.12.1990, this Tribunal issued proper directions to the respondents in OA 491/89 that as per the procedure prescribed for preparing the select list, an integrated seniority list of eligible offices from all the three wings should be prepared and placed for the purpose of selection. This direction though duly communicated to the Chief Secretary of the Government of Kerala, Secretary, Department of Personnel of the Government of India and the Secretary, Union Public Service Commission, was not followed scrupulously. Injustice is being perpetuated even now by preparing list of eligible State Police Service officers in three different blocks, as if the eligibility list is also the seniority list of State Police Service officers belonging to three different wings. We deprecate this approach made by the State Government. Accordingly, in this connection, we are compelled to observe that if this practice of preparing the list for selection to the IPS cadre is continued in future, it may even amount to contempt, exposing the respondents for being ~~proceeded~~ against under the Contempt of Court Act.

30. M.P.No.1140/93 for impleading was heard along with the O.A. The arguments of the learned counsel appearing on behalf of the petitioner therein were also heard. We see no substance in the same. Accordingly, we dismiss the same.

31. In the result, the original application is allowed as indicated above. We further direct that till the final decision and implementation of the above directions, the interim order passed by us on 28.6.93 will be in force ~~with~~ extension of time limit.

32. There will be no order as to costs.


(R.RANGARAJAN)
ADMINISTRATIVE MEMBER


(N.DHARMADAN)
JUDICIAL MEMBER

27.8.93

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

C.P.C No.215 of 1994 in O.A. No.524 of 1993

Thursday, this the 8th day of February, 1996

CORAM

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR P V VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

A. Abdul Hameed,
Deputy Commandant,
Kerala Armed Police, III Battalion,
Thiruvananthapuram. .. Petitioner

By Advocate Mr N. Nandakumara Menon.

Vs

- 1 K. Padmanabhaiah, I.A.S., S/o (not known to the Petitioner), Secretary to Government of India, Ministry of Home Affairs, New Delhi.
- 2 R. Ramachandran Nair, S/o (not known to the Petitioner), Chief Secretary, Government of Kerala, Thiruvananthapuram.
- 3 Mrs. Rose Millian Bathew, D/o (not known to the Petitioner), Chairman, Union Public Service Commission, (U.P.S.C), Shahjahan Road, New Delhi.
- 4 S.P. Purkayastha, S/o (not known to the Petitioner), Secretary, Union Public Service Commission, Shahjahan Road, New Delhi. .. Respondents

By Advocate Mr D Sreekumar, G.P. for R-2

Mr TPM Ibrahim Khan, Sr. CGSC for R 3 & 4

The petition having been heard on 8th February 1996, the Tribunal on the same day delivered the following :


O R D E R

CHETTUR SANKARAN NAIR (J), VICE CHAIRMAN

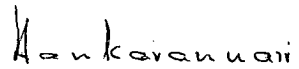
Petitioner complains that the orders of this Tribunal in O.A. 524 of 1993 have been disobeyed. We have reviewed and set aside that order and dismissed the

original application. In this view the Contempt
Petition is without merit. We discharge notice
and dismiss the petition. Parties will suffer their
costs.

Dated the 8th February, 1996.



P V VENKATAKRISHNAN
ADMINISTRATIVE MEMBER



CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN