

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.530/98

Friday this the 26th day of June, 1998.

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. S.K. GHOSAL, ADMINISTRATIVE MEMBER

T.Sasidharan,
Superintendent of Police,
(Vigilance & Security)
Travancore Devaswom Board,
Thiruvananthapuram.

...Applicant

(By Advocate Mr. K.P. Dandapani)

Vs.

1. Union of India, represented by the
Secretary to Government of India,
Ministry of Home Affairs,
New Delhi.

2. Union Public Service Commission,
rep. by the Secretary,
Shahjahan Road, New Delhi.

3. State of Kerala, rep. by the
Chief Secretary, Government
Secretariat, Thiruvananthapuram.

4. The Convenor,
Departmental Promotion Committee (Higher)
for Police Department,
Chief Secretary to Government,
Secretariat Building,
Thiruvananthapuram.

...Respondents

(By Advocate Mr. C.T.Ravikumar For R.3.)
Mr.TPM Ibrahim Khan, SCGSC (R.1&2) (no repn.)

The application having been heard on 25.6.98, the Tribunal
on the same day delivered the following:

O R D E R
Hon'ble Mr.A.V.Haridasan, Vice Chairman

The applicant is a senior officer in the
State Police Service. He was considered alongwith others
for appointment by promotion to the Indian Police Service
and his name was seventh in the select list of
Superintendent of Police fit for appointment in the IPS
for the year 1997-98 (A.1). His grievance is that while
Serial Nos.1 to 4 in Annexure.A.1 have already been
appointed to the IPS and two persons in the waiting list

also have been appointed, as serial Nos.5 and 6 had already retired from service, the third respondent has not forwarded the name of the applicant to the Central Government for considering his appointment in the Indian Police Service under Rule 9 of the Indian Police Service (Appointment by Promotion) Regulation, 1955. The factual background in which the third respondent has refrained from forwarding the name of the applicant has been set out by the applicant in the application. The applicant had been served with a Memorandum of Charge dated 11.3.96 pertaining to some alleged lapse on his part during the year 1991 when he was holding charge of the post of Deputy Superintendent of Police, Atingal from 26.7.91 to 14.5.92. The basis of the memorandum of charge was alleged lapse in properly investigating a reported unnatural death of a woman. The Enquiry Officer had already completed the enquiry and forwarded the report to the disciplinary authority on 13.6.97. A final decision in the matter was not taken. Apprehending that the pendency of the departmental ~~proceedings~~ would stand as a stumbling block in the way of ~~his~~ appointment to the IPS, the applicant made representations to the third respondent requesting for passing a final order in the proceedings and to forward his name to the Central Government for his appointment in the Indian Police Service. The applicant had alleged that the Enquiry Officer had in his report found him not guilty of the charges. As the representations submitted to the third respondent were not considered and disposed of promptly the applicant approached the Hon'ble High Court of Kerala in OP.3744/98. The Hon'ble High Court of Kerala by its order dated 9.3.98 (A4) directed the Government to consider and pass orders on ~~the representations~~ (Ext.P3 and P7 in that OP) of the applicant as early as possible at any rate on or before

25.3.98 so that the applicant's claim to be posted in the IPS should not be unnecessarily affected. It was also directed that if the applicant's representations were disposed of in his favour his name should be forwarded to the appropriate authority in accordance with his ranking in the select list. In purported obedience of the order of the Hon'ble High Court of Kerala, the third respondent has issued the impugned order dated 25.3.98 (A5) wherein it has been stated that as the disciplinary proceeding against one Shri K.V.Vijayakumar, the predecessor of applicant as Deputy Superintendent of Police, Attingal is still pending it would not be proper to dispose of the P.R. Minutes relating to the applicant before completion of that enquiry. However, it was stated in this order that this would not affect the applicant's case for appointment to IPS so long as the present select list in which his name is included(conditionally) stands. They also have indicated that action has been taken to dispose of the case before the new select list is prepared.

2. The applicant has impugned this order and has prayed that the third respondent be directed to forward the applicant's name to the Central Government forthwith for appointment under Rule 9 of the Indian Police Service (Appointment by Promotion) Regulations, 1955, that A5 order may be set aside to the extent it held "that it would not be proper to dispose off the case of Shri Sasidharan before finalising the enquiry against Shri K.V.Vijayakumar, who was his predecessor in office as Deputy Superintendent of Police, Attingal and that the third respondent may be directed to forward the name of the applicant to the Central Government notwithstanding the pendency of the enquiry against Shri K.V.Vijayakumar.

3. It has been stated in the application that there is absolutely no connection between the P.R. Minutes relating to the applicant and the enquiry against Sri K.V.Vijayakumar inasmuch as the applicant is not even a witness in that enquiry.

4. The third respondent in his reply statement has stated that as an enquiry against Shri K.V.Vijayakumar the predecessor in office of the applicant is pending it would not be possible to dispose of the P.R. Minutes in regard to the applicant before that enquiry is over. The particular reason why it is not possible to dispose of the disciplinary proceedings in regard to the applicant before completion of the proceedings against Shri K.V.Vijayakumar is not mentioned in the reply statement. It is not the case of the third respondent that the enquiry is a common one. It is also not in dispute that the report of the Enquiry Officer pertaining to the applicant is available with the disciplinary authority with effect from 13.6.97.

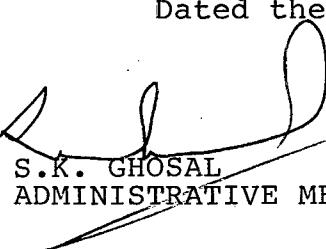
5. We have perused the pleadings in this case and have heard the learned counsel appearing for the parties. Shri C.T.Ravikumar, Government Pleader appearing for the third respondent has made available for our perusal the P.R. Minutes in regard to the applicant. We have gone through the P.R. Minutes which contains the enquiry report, according to which the Enquiry Officer has opined that the charge against the applicant has not been established.

6. If the disciplinary proceedings against an officer is intrinsically connected with the proceedings against another officer it may not be possible to properly dispose of one case before the conclusion of the other. Apart from the fact that the enquiry against Shri

K.V.Vijayakumar is in connection with the alleged perfunctory investigation conducted by him in the case of an unnatural death of a woman it is nowhere stated either in the ~~Impugned~~ order or in the reply statement filed by the third respondent that there is any other connection of the disciplinary proceedings against the applicant with the enquiry against Sri Vijayakumar. As there is a ~~fulfilled~~ ~~applicant~~ ~~is~~ ~~not~~ even a witness in the enquiry against Shri K.V.Vijayakumar, we do not find any justifiable reason why the disciplinary authority cannot take a decision in the case of the applicant on the basis of the enquiry report in the P.R. Minutes. The applicant is at a very important stage in his career. The longer the third respondent keep the proceedings against the applicant pending, the greater is the anxiety and mental agony of the applicant in regard to his career prospects. As the disciplinary proceedings against Shri K.V.Vijayakumar was initiated only on 16.11.97 if a final order in the case of the applicant is to be passed alongwith the order in Vijayakumar's case it is likely to be delayed beyond the next meeting of the select committee. As we have found that there is no justifiable reason to keep the disciplinary proceedings against the applicant pending till the completion of the enquiry against Shri K.V.Vijayakumar, we are of the considered view that the third respondent should pass a final order in the pending disciplinary proceedings against the applicant without any further delay as the enquiry has already been completed by the ~~enquiry~~ authority in June, 1997.

7. In the light of what is stated above, we are of the considered view that in the interest of justice the third respondent has to be directed to pass a final order in the disciplinary proceedings pending against the applicant as expeditiously as possible at any rate within a period of one month from the date of receipt of a copy of this order without waiting for the completion of the disciplinary proceedings initiated against Shri K.V.Vijayakumar. We order accordingly. If as per the final order in the disciplinary proceedings the applicant is exonerated of the charges, the third respondent shall immediately forward his name to the Central Government for making appointment under Rule 9 of the Indian Police Service (Appointment by Promotion) Regulations, 1955, as one post had already been kept reserved by an interim order issued in this case. There is no order as to costs.

Dated the 26th day of June, 1998.


S.K. GHOSAL
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

|ks|

LIST OF ANNEXURES

1. Annexure A-1 : Select list of Superintendents of Police for the year 1997-98.
2. Annexure A-4 : Judgment of the Hon'ble High Court of Kerala, dated 9-3-1998 in OP No.3744/98 U.
3. Annexure A-5 : Letter No.4565/H1/98/Home dated 25-3-98 issued to the applicant by the Additional Chief Secretary.

* * * * *