

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.530/02

Friday this the 16th day of August, 2002.

CORAM

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

S.Rajeev
Advocate and Tax Consultant
Rajee Amritha Giri
Vadesserikonam P.O.
Thiruvananthapuram.

Applicant.

(By advocate Mr.O.Ramachandran Nambiar

Versus

Union of India rep.by
Secretary to the Government of India
Ministry of Law, Justice & Company Affairs
Department of Legal Affairs
Dr.Rajendra Prasad Road
Sasthri Bhavan
New Delhi.

Respondent.

(By advocate Mr.C.Rajendran, SCGSC)

The application having been heard on 16th August, 2002,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant has filed this Original Application aggrieved by
A-10 order dated 31.8.01 issued by the respondents seeking the
following reliefs:

- i. To call for the records and to conduct a judicial review of the entire procedure adopted by the respondent in conducting the interview by the Selection Board at Madras on 16.11.98 and at Bangalore on 14.3.2000 and again at Madras on 16.10.2000 and on 6.11.2000 at Calcutta for selection and appointment to the post of Judicial Member in the Income Tax Appellate Tribunal, and further proceedings which are still undisclosed, and to set aside the appointments made, if any, keeping the applicant outside the zone of consideration and denying him the benefit of reservation due to the applicant being a candidate belonging to the Other Backward Classes.
- ii. Direct the respondent to fill up the vacancies of Judicial Members in the Income Tax Appellate Tribunal, reserved for candidates belonging to the OBC category.
- iii. Direct the respondent to consider the applicant for appointment to the post of Judicial Member in the Income Tax Appellate Tribunal.

iv. Issue such other order, declaration or direction as is deemed just and necessary in the circumstances of the case.

2. Applicants' case is that he, an advocate being fully qualified for the post of Judicial Member, Income Tax Appellate Tribunal, applied for the post when the said vacancy was advertised by A-1 notification dated 28.9.97 and again when it was notified in August, 1999 and again when it was notified by A-4 notification in May, 2000. Applicant who belongs to OBC category, submitted that in the first notification, four posts were reserved for OBC out of the total seven posts reserved for SC/ST and OBC candidates. In the second notification, out of the 13 posts advertised, five posts were reserved for OBC candidates. In the third notification, out of the 5 posts reserved, four posts were reserved for OBC candidates. Applicant submitted that he appeared for all the interviews and against the third notification he appeared on 6.11.2000 at Calcutta. Submitting that the results of the interviews were not published, he filed O.P.No.11766/2001 before the Hon'ble High Court of Kerala praying for a direction to the respondent herein to publish the results of the interviews conducted by the Selection Board on 16.11.98, 14.3.2000, 16.10.2000 and 6.11.2000 and also for selection and appointment to the vacancies of Judicial Members in the Income Tax Appellate Tribunal reserved for candidates belonging to the OBC category and to direct the respondent to fill up the vacancies and for other consequential reliefs. He submitted that the Hon'ble High Court allowed the O.P.No.11766/2001 as per judgement dated 6.8.2001 directing the respondent to publish the result of the interviews conducted for selection and appointment to the post of Judicial Member in the Income Tax Appellate Tribunal within a period of one month from the date of production



of a copy of the judgement and depending upon the list thus published the respondent was directed to take steps for filling up the vacancies. Applicant was informed by A-10 letter dated 31.8.2001 that he was not selected. On receipt of A-10, the applicant initiated Contempt of Court proceedings against the respondent by filing C.C.C. No.1753 of 2001 before the Hon'ble High Court of Kerala. The Hon'ble High Court of Kerala closed the contempt proceedings by judgement dated 21.1.2002 reserving the right of the applicant to challenge the entire selection process as such. Applicant submitted that aggrieved by the arbitrary and illegal action of the respondent, he preferred this OA invoking the jurisdiction of this Tribunal for call for the records and to conduct a judicial review of the entire procedure adopted by the respondent in conducting the interview by the Selection Board at Madras on 16.11.98 and at Bangalore on 14.3.2000 and again at Madras on 16.10.2000 and on 6.11.2000 at Calcutta on the ground that results of the interviews had not been published.

3. When the OA came up for admission on 30.7.02, Senior Central Government Standing Counsel took notice on behalf of the respondent and sought time to get instructions before admission.

4. Today when the OA came up for admission, we heard the learned counsel Mr. Geen T. Mathew representing Mr. Ramachandran Nambiar, counsel for the applicant and Mr. C. Rajendran, SCGSC. Learned counsel for the applicant submitted that as none was selected against the OBC and as the applicant has been advised that he has not been selected, this Tribunal may call for the



records to conduct a judicial review of the selection process and also direct the respondent to fill up the vacancy of Judicial Member in the Income Tax Appellate Tribunal reserved for OBC category. Learned counsel for the respondents on instructions submitted that the entire selection process was conducted by a high powered Selection Committee headed by a sitting Judge of the Hon'ble Supreme Court of India (in 1998, Feb/Mar 2000 and Oct/Nov.2000). It was submitted that candidates were selected on the basis of their performance in the interviews by the Selection Board and the candidates so selected were appointed as Members, ITAT after seeking approval of the Appointments Committee to the Cabinet. It was submitted that vacancies of Judicial Member belonging to category of OBC that were advertised in 1997, 1999 and 2000 had been filled up. Applicant's case was considered and the Selection Board did not find him suitable for the post of Judicial Member.

5. On a careful consideration of the materials placed before us and the submissions of the counsel, we find that the applicant cannot have a legitimate grievance to approach this Tribunal through this OA. We find from the materials placed before us in the OA that the applicant had approached the Hon'ble High Court of Kerala through an OP seeking certain reliefs and on the said OP being allowed, the applicant had been advised of the result of his applications and interviews by A-10 letter dated 31.8.2001. The first relief sought for by the applicant through this OA is to call for the records and to conduct a judicial review of the entire procedure adopted by the respondent in conducting the interview and selection. That means that he is aggrieved by A-10



letter but there is no challenge against A-10 letter in this OA. The only direction sought for from this Tribunal through this OA is to fill up the vacancies of Judicial Members in the Income Tax Appellate Tribunal reserved for candidates belonging to the OBC category. Learned counsel for the respondents on instructions submitted that all the vacancies notified through the three notifications for Judicial member belonging to OBC category have been filled up.

6. In the light of the above position, we do not find any matter to be adjudicated by this Tribunal as sought for through this OA.

7. Accordingly we reject this OA under Section 19 (3) of the Administrative Tribunals Act, 1985 at the admission stage.

Dated 16th August, 2002.



K.V.SACHIDANANDAN
JUDICIAL MEMBER

aa.



G.RAMAKRISHNAN
ADMINISTRATIVE MEMBER

A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the notification published in the Indian Express Daily dated 28.9.97.
2. A-2: True copy of the letter dated 21.10.98 inviting the applicant for interview at Madras.
3. A-3: True copy of the letter dated 3.2.2000 inviting the applicant for interview at Bangalore.
4. A-4: True copy of the notification published in the New Indian Express Daily dated 26.5.2000.
5. A-5: True copy of the covering letter dated 5.6.2000 along with the applicant's application dated 5.6.2000.
6. A-6: True copy of the letter dated 15.9.2000 calling the applicant for interview at Madras.
7. A-7: True copy of the certificate dated 19.10.2000 issued by the Tahsildar, Chirayinkeezhu Taluk.
8. A-8: True copy of the applicant's letter dated 20.10.2000.
9. A-9: True copy of the letter dated 19.10.2000 calling the applicant for interview at Calcutta on 6.11.2000.

npp
26.8.02