

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

Original Application No. 531 of 2007

Monday...., this the 24<sup>th</sup> day of November, 2008

**C O R A M :**

HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

HON'BLE DR. K S SUGATHAN, ADMINISTRATIVE MEMBER

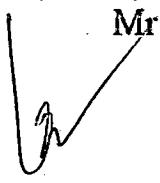
P.C. Muhajir,  
Superintendent of Police,  
Special Investigation Team,  
Thrissur, Residing at Flat No.19,  
Hill Garden, Anchery P.O.,  
Thrissur : 6 ... Applicant.

(By Advocate Mr. S. Radhakrishnan)

v e r s u s

1. Union of India, represented by  
The Secretary, Home Affairs,  
Government of India, New Delhi.
2. The Selection Committee to the  
Indian Police Service, Constituted under  
Regulation 3 of Indian Police Service  
(Appointed by Promotion) Regulation 1955  
Represented by the Secretary, Union Public  
Service Commission, Shajahan Road,  
New Delhi
3. The Union Public Service Commission,  
Represented by the Secretary,  
UPSC, Shajahan Road, New Delhi.
4. The State of Kerala, represented by  
The Chief Secretary to the Government,  
Government of Kerala, Trivandrum. ... Respondents.

(By Advocate Mr. TPM Ibrahim Khan, SCGSC for R1-3 and  
Mr. R. Prem Shanker for R4)



The Original Application having been heard on 5.11.08, this Tribunal on 24.11.08, delivered the following:

O R D E R  
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The applicant has challenged the non-selection for appointment to the Kerala cadre of IPS in the recruitment year 2006 and has prayed for a direction to the Selection Committee and UPSC, to constitute a review Selection Committee for selection of suitable candidates to the Kerala cadre of IPS for the said recruitment year 2006.

2. Briefly, the facts of the case are that for appointment to the IPS cadre, the Departmental Promotion Committee (DPC, for short), is governed by Regulation 5(4) and 5(5) of IPS (Appointment by promotion) Regulations, 1955 and the same is extracted below:

**“Regulation 5 (4) :**

The Selection Committee shall classify the officers as “Outstanding”, “Very Good”, “Good” or “Unfit” as the case may be on an overall relative assessment of their service records.

**Regulation 5(5) :**

The list shall be prepared by including the required number of names, 1<sup>st</sup> from among the officers finally classified as “Outstanding” then from among those similarly classified as “Very Good” and thereafter from among those similarly classified as “Good” and the order of names inter se

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within each category shall be in the order of their seniority in the State Police Service".

3. According to the applicant, from 26.10.1999 to 31.12.2005, the remarks in the Annual Confidential Reports were forwarded by the Director General of Police and the same proved that he was graded 'Outstanding' in all these years. The applicant was, however, not selected. In reply to the applicant's earlier O.A. No. 358/07, the UPSC has stated as under:

"5. ..... The name of the applicant was considered at Sl. No. 9 in the list of eligible officers. On an overall assessment of their service records the Committee graded the applicant as well as Respondent No. 5 as "Very Good". On the basis of the grading received by the applicant his name could not be included in the list of selected officers, due to statutory limit on the size of the Select List. However, the respondent No. 5 was included at Sr. No. 1 of the Select List on the basis of his higher position in the list of eligible officers. The recommendations of the Selection Committee are yet to be approved by the Commission as the views of the State Government and the Government of India, Ministry of Home Affairs on the minutes of the SCM has not been received so far. Meanwhile, vide letter dated 30.05.2007 the 5<sup>th</sup> respondent has expressed his unconditional willingness to be appointed to IPS and the same has been forwarded to the Ministry of Home Affairs."

4. According to the applicant, the grading as per the Annual Confidential Reports was 'Outstanding' whereas UPSC graded him only "Very Good". The grading given by the Selection Committee is patently illegal, arbitrary and violative not only of the Regulations but also Article 14 of the Constitution.

5. The stand of the respondents as contained in reply to O.A. No. 358/2007 filed by the respondents, is as under :

“According to them, there were 5 vacancies during 2006 and the zone of consideration was 15. The name of the applicant was considered at Serial No. 9 in the list of eligible officers. On an overall assessment of the service records, the Committee graded the applicant as “Very Good”. Due to statutory limit on the size of the Select List, the name of the applicant could not be included as already officers above the applicant in the seniority with identical grading have been selected. In other words, amongst those who had a grading of bench mark “Very Good” and “Good”, the applicant was at serial No. 6.”

6. In the reply, respondents No. 2 and 3 have in brief stated that the very same contention that they had averred in the reply to the earlier O.A. referred to above, is adopted.

7. The respondents have itemised the contention of the instant O.A. and stated as under :

“The Selection Committee examines the service records of officers, with special reference to their performance during the years preceding the years for which the Select List is being prepared. The Committee deliberate on the quality of the officer

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as indicated in the various columns recorded in the ACRs for different years and after detailed deliberation and discussion, arrives at a grading. While doing so, the Selection Committee also reviews the overall grading recorded in the CRs to ensure that it is not inconsistent with the grading/remarks under various specific attributes. The Selection Committee takes into account orders regarding appreciation for the meritorious work done by the officers concerned and also keeps in view orders awarding penalties or any adverse remarks duly communicated to the officer, which, even after due consideration of his representation are not expunged. On an over all assessment of the performance as reflected under various columns of his ACRs of preceding 5 years, the Selection Committee assessed the applicant as "Very Good". However, due to the statutory limit on the size of the Select List his name could not be included in the Select List."

8. Learned counsel for the applicant has argued that a perusal of ACRs as contained in Annexure A/1 series would go to show that the applicant's performance has been "excellent" all through. The counsel has taken us through the statement prepared on the basis of such reports vide page 3 of the O.A. It is contended that a glimpse of the said statement would reveal that consistently the Reviewing Authority grade the applicant as "Outstanding"/"excellent". If the Selection Committee comes to the conclusion that the grading of the applicant should be "Very Good", the Committee should have proper

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material for the same and no such material has been produced. If on the other hand, the Committee had rigid yardstick whereby the grading given by the Reviewing Authority has been modified, it is to be seen whether such rigid yardstick has been followed in respect of other officers as well.

9. The counsel for the respondents submitted that the Selection Committee had the full authority to consider the ACRs and arrive at their own grading which was done in this case, as well as in other cases also. Since identical grading "Very Good" was obtained <sup>by</sup> <sub>as many</sub> as five officers senior to the applicant, obviously, the name of the applicant could not be included in the Select List as the total number of vacancies for the recruitment year 2006 was only 5.

10. The respondents have also made available the ACR dossiers of the applicant as well as minutes of the DPC for our perusal.

11. Arguments were heard and documents perused. Admittedly, the Selection Committee has been vested with the authority of awarding their own grading on the basis of Annual Confidential Reports. As per the minutes of the meeting, the following overall grading had been given to various officers :

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<u>Sl.No.</u>	<u>Name of Officer</u>	<u>Overall Grading</u>
1.	K.B. Balachandran (SC)	Good
2.	V.R. Reghuvarma (SC)	Good
3.	K J Devasia	Very Good
4.	E. Divakaran (SC)	Very Good
5.	A. Mohanan (SC)	Good
6.	N. Gopalakrishnan (SC)	Very Good
7.	P.G. Ashok Kumar	Very Good
8.	M.P. Dinesh	Very Good
9.	P.C. Muhajir	Very Good
10.	C.S. Parameswaran Nair	Good
11.	C. Rajagopal	Very Good
12.	S. Jogesh	Very Good
13.	K.A. George	Very Good
14.	P.V. George	Very Good
15.	P.V. Moosa	Good

12. In fact, after the applicant 4 more officers junior to him were graded "Very Good".

13. Annual Confidential Reports of the applicant have also been gone through, perusal of which shows that the applicant's performance as has been graded by the Reviewing Authority, ranges from "Good" to "Outstanding". It is pertinent to mention here that the very same officer who had graded the applicant as "Outstanding" for the period from 1.1.2001 to 28.02.2001 (two months), graded him as only "Good" for the period from 15.03.2001 to 29.10.2001 (7 1/2 months). For the period from 24.06.2002 to 31.12.2002, while the Reporting Officer had

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graded the applicant "Very Good", the Reviewing Authority had reflected as "I agree". So is the case for the period from 1.1.2003 to 4.11.2003 as also from 11.11.2003 to 31.12.2003. Thus, though for certain period the applicant's performance had been graded as "Outstanding", since it ranged from "Good" to "Outstanding", the overall grading as "Very Good" arrived at by the DPC does not appear to be improper. The Apex Court in the case of Union of India vs. A.K. Narula, 2007 (11) SCC 10, has observed that *"the guidelines give a certain amount of play in the joints to DPC by providing that it need not be guided by the overall grading recorded in Confidential Reports, but may make its own assessment on the basis of the entries in Confidential Reports. DPC is required to make an overall assessment of the performance of each candidate separately, but by adopting the same standards, yardsticks and norms. It is only when the process of assessment is initiated either on the ground of bias, malafides or arbitrariness, that the selection calls for interference. Where DPC has proceeded in a fair, impartial and reasonable manner, by applying the same yardstick and norms to all candidates and there is no arbitrariness in the process of assessment by DPC, the Court will not interfere."*

14. Keeping in view the above observation of the Apex Court when this case is considered, we are of the considered view that the grading

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of the DPC cannot be found fault with. As such the Original Application fails and is, therefore, dismissed.

15. No costs.

(Dated, the 24<sup>th</sup> November, 2008)



(Dr. K S SUGATHAN)  
ADMINISTRATIVE MEMBER



(Dr. K B S RAJAN)  
JUDICIAL MEMBER

cvr.