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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.537/09

Friday this the 16th day of April 2010

C O R A M :

**HON'BLE Mr.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Rahul V.C.,(Roll No.6691 of IFS 2008)
S/o.V.C.Sreejan,
Residing at "Revathy", Kairali Nagar,
Thottada P.O., Kannur District.

...Applicant

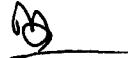
(By Advocate Mr.Shaji V.A.)

V e r s u s

1. Union of India represented by the Secretary,
Ministry of Personnel, Public Grievances & Pensions,
Dept. of Personnel & Training, North Block,
New Delhi.
2. Union of India represented by its Secretary,
Ministry of Environment and Forest,
B Block, C.G.O.Complex, Lodi Road,
New Delhi - 110 003.
3. Union Public Service Commission,
represented by its Secretary,
Dholpur House, Shahajan Road,
New Delhi - 110 069.Respondents

(By Advocate Mr.Sunil Jacob Jose,SCGSC [R1-2]
& Mr.Thomas Mathew Nellimoottil [R3])

This application having been heard on 16th April 2010 the Tribunal
on the same day delivered the following :-



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ORDER

HON'BLE Mr.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

The applicant has filed this Original Application for a direction to the 3rd respondent, UPSC, to consider his Annexure A-6 representation and also to quash Annexure A-4 and Annexure A-7 by which his Annexure A-6 representation has been rejected by the 3rd respondent. At this juncture, the applicant has also filed M.A.299/10 for amending the Original Application with an additional prayer for a direction to the 2nd respondent to consider his Annexure A-6 representation and pass orders thereon.

2. The brief facts of the case are :- The applicant appeared for the competitive examination for the Indian Forest Service (IFS for short) conducted as per application dated 9.2.2008. The applicant appeared for the all India level competitive examination and in the application so filed he had recorded his community status as 'General' candidate, though he belongs to Thiyya community. At the time of filing the preliminary application, as directed by the 3rd respondent, the community status of the candidates for claiming reservation benefit on the basis of OBC, the candidates should write their community status in the 'General' category if the income is above the limit fixed by the Government of India. Hence, the applicant had recorded his community status in the 'General' category. After the examination and on passing the result the applicant was found



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eligible for selection and he was also sent for training. In the meanwhile, the Government of India as per Annexure A-1 Office Memorandum dated 14.10.2008 raised the income limit for claiming the benefit of OBC status. If that Office Memorandum is taken into consideration the applicant could have claimed the OBC status. Hence, the applicant filed Annexure A-6 representation to the 3rd respondent to include his name in the OBC category of the select list. However, as per Annexure A-4 and Annexure A-7 answers given to the said representation, the claim of the applicant has been rejected. Hence, the applicant filed the present Original Application.

3. The application has been admitted by this Tribunal and notice has been ordered to the respondents. In pursuance to the receipt of the notice ordered from this Tribunal, the 3rd respondent is represented by Shri.Varghese on behalf of the Additional Central Government Standing Counsel Shri.Thomas Mathew Nellimoottil and 1st and 2nd respondents, namely, Union of India represented by the Secretary, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, North Block, New Delhi and Ministry of Environment & Forest, B Block, CGO Complex, New Delhi is also represented by the Senior Central Government Standing Counsel, Shri.Sunil Jacob Jose. The application has been resisted by the 3rd respondent by filing the reply statement to the effect that once an application for examination has been received and the community status has been recorded, it cannot be changed subsequently



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in ordinary case. Hence, the stand taken in Annexure A-4 and Annexure A-7 are justifiable. Further stand taken in the reply statement filed on behalf of 3rd respondent is that as claimed by the applicant there is no second stage of the application. In the preliminary stage itself the applicant ought to have recorded his community status. In the case of the applicant it is already recorded by him that he has to be treated as a 'General' candidate. If so, even if any subsequent notification, issued by the Government of India, raising or reducing the income of a claimant of a OBC status by itself will not change the community status of the applicant and that is not within the power of the 3rd respondent.

4. On receipt of the reply statement, the applicant also filed a rejoinder reiterating the ground in the Original Application with an additional ground that when the time of sending the application for competitive examination the income limit fixed for OBC claimants was above and hence the applicant had recorded his community status as 'General' candidate. However, by the subsequent order the Government of India itself had raised the income for claiming OBC status by the notification. The applicant is only claiming the benefit of that notification. Hence, the applicant wants to have a direction to the 2nd respondent to consider the inclusion of his name in the OBC category while allotting the cadre.

5. We have heard counsel appearing for the parties. We have also

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perused the documents produced before this Tribunal. In the light of the contentions raised by the counsel for the applicant the question now to be considered is that whether the applicant is justifiable in filing Annexure A-6 representation before the 3rd respondent with a copy to the other respondents and whether the applicant is entitled for any relief which he claims in the Original Application or not. Admittedly, when the applicant filed the application for competitive examination in pursuance to the Annexure A-1 notification his caste status has already been recorded as 'General' candidate. If so, as per rules being followed by the UPSC, in normal case the community status could not be changed by subsequent application. If so, we are not in a position to give any direction to the 3rd respondent to consider his case or to interfere with Annexure A-4 and Annexure A-7. At the same time, it is the case of the applicant that after the notification issued by the Government of India, his caste status is changed on the basis of the income fixed by the Government of India which is a right accruable to him as per the notification. If so, before the cadre allotment the applicant shall file a representation before the authorities who are empowered to consider this question.

6. In the above circumstances, we allow the amendment of this Original Application with an additional prayer for directing the 2nd respondent to consider his case. At the same time, we are ignoring the fact that the applicant has not filed the Annexure A-6 representation to the 2nd

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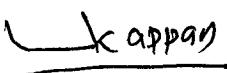
respondent or to the 1st respondent, but the same has been sent to the 3rd respondent. Only the copies are sent to the 1st and 2nd respondents. If so, we will be justified by directing the 2nd respondent to consider the claim of the applicant at the time of allocation of the cadre and for this purpose it is only appropriate for the 3rd respondent to sent the original of Annexure A-6 to the 2nd respondent for their consideration forthwith. On receipt of original of the Annexure A-6 from the 3rd respondent or to consider the copy of the Annexure A-6 which the applicant had already sent to the 2nd respondent, the 2nd respondent shall pass appropriate orders thereon within a period of 45 days from the date of receipt of a copy of this order.

7. With the above directions, the Original Application is disposed of. There shall be no order as to costs.

(Dated this the 16th day of April 2010)


K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER

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JUSTICE K. THANKAPPAN
JUDICIAL MEMBER