

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

ORIGINAL APPLICATION NO:575/2009.
DATED THE 24th DAY OF AUGUST, 2009.

CORAM:

HON'BLE Mr GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Ms K NOORJEHAN, ADMINISTRATIVE MEMBER

T.O.Sooraj, I.A.S.,
Director of Industries and Commerce,
Government of Kerala.
Thiruvananthapuram.

... Applicant.

By Advocate Mr P K Manoj Kumar

V/s

- 1 The Union of India,
represented by its Secretary to Government
Public Grievances and Pension,
Department of Personnel and Training
Government of India, New Delhi.
- 2 The State of Kerala,
represented by the Chief Secretary,
Government of Kerala, Secretariat,
Thiruvananthapuram.

... Respondents

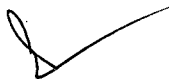
By Advocates
Mr A D Raveendra Prasad ACGSC (R-1)
Mr R Premsankar GP (R-2)

This application having been heard on 24.08.2009 the Tribunal on the same day delivered the following

(ORDER)

HON'BLE Mr GEORGE PARACKEN, JUDICIAL MEMBER

The applicant belongs to the Indian Administrative Service of Kerala Cadre of 1994 batch. According to him, his batchmates including his juniors have been promoted to the Super Time Scale of IAS in the scale of Rs.37,400 – 67,000/- plus Grade Pay Rs.10,000/-. He has produced the



Annexure A-6 Order of Government of Kerala promoting Mr K R Muraleedharan IAS, Mr A Ajith Kumar IAS, Dr. V M Gopala Menon IAS, Mr K M Ramanandan IAS and Mr M N Gunavardhanan IAS all belonging to the 1994 batch. He has further submitted that he has not been promoted only because of the pendency of the Disciplinary case against him which are not of very serious nature. He has, therefore, sought a direction to the respondents to place his case before the Review Screening Committee to consider him for promotion to the higher grades as in the case of his batchmates and juniors, notwithstanding the pendency of the disciplinary proceedings in the light of the judgment of the Apex Court in B C Chaturvedi V/s Union of India 1995(6) S.C.C. in which it has been held as under:-

"8 It is true that pending disciplinary proceeding, the appellant was promoted as Assistant Commissioner of Income Tax. Two courses in this behalf are open to the competent authority, viz., sealed cover procedure which is usually followed, or promotion, subject to the result of pending disciplinary action. Obviously, the appropriate authority adopted the latter course and gave the benefit of promotion to the appellant. Such an action would not stand as an impediment to take pending disciplinary action to its logical conclusion. The advantage of promotion gained by the delinquent officer would be no impediment to take appropriate decision and to pass an order consistent with the finding of proved misconduct."

2 Learned counsel for applicant has also submitted that the next Review Screening Committee for promotion and appointment to the Super Time Scale is going to be held on 29.8.2009. .

3 Mr R Premsankar, learned counsel appearing for Respondent no.2 has no objection to the aforesaid course of action suggested by the learned counsel for applicant as the applicant's request is based on aforesaid judgment of the Apex Court.

4 In view of the above, we dispose of the OA with a direction to the



2nd respondent, namely, the State of Kerala represented by Chief Secretary to place the case of the Applicant before Review Screening Committee for its consideration for promotion and appointment to Super Time Scale which is scheduled to be held on 29.8.2009 or on any subsequent dates.

5 With the aforesaid direction, this OA is disposed of. There shall be no orders as to costs.


K NOORJEHAN
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER

abp