

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 577 OF 2010

Thursday, this the 17th day of May, 2012

CORAM:

**HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

M. Rasheed, SC No. 15065
Senior Accounts Officer, ICF/MVIT Accounts,
Vikram Sarabhai Space Centre,
Indian Space Research Organisation (ISRO)
Department of Space, Thumba
Thiruvananthapuram- 695 022
Kerala.

... Applicant

(By Advocate Ms.Aswathi Appukuttan .)

versus

1. Union of India represented by
The Secretary, Department of Space
Government of India, Anthareeksha Bhavan,
New B.E.L. Road, Bangalore-560 094.
2. Indian Space Research Organisation
Department of Space Administration
Government of India,
Anthareeksha Bhavan, New BEL Road,
Bangalore-560 094
Represented by its Chairman.
3. Vikram Sarabhai Space Centre
Indian Space Research Organisation (ISRO)
Department of Space, Thumba,
Thiruvananthapuram- 695 022
Kerala, Represented by its Director.
4. The Departmental Promotion Committee
For promotion to the post of Administrative Officers
represented by its chairman
Department of Space
Head Quarters' Office, Bangalore,
5. P.S.Veeraraghavah
Director Vikram Sarabhai Space Centre
Indian Space Research Organisation (ISRO)
Department of Space, Thumba
Thiruvananthapuram- 695 022
Kerala.

6. G. Alagesan
Senior Accounts Officer,
Satish Dhavan Space Centre
Sriharikota Range P.O., Nellur District
Andhra Pradesh - 524124.
 7. M. Babu
Senior Accounts Officer,
Vikram Sarabhai Space Centre
Indian Space Research Organisation (ISRO),
Thiruvananthapuram- 695 022
Kerala.
 8. P.G.Vijayakumar
Senior Accounts Officer
National Remote Sensing Centre, ISRO
Bangalore.
 9. S.D.Devarama Murthy
Senior Accounts Officer
ISRO Satellite Centre
Bangalore
- ... Respondents

(By Advocate Mr.Sunil Jacob Jose, SCGSC)

The application having been heard on 17.05.2012, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

The applicant was initially appointed as Accounts Trainee somewhere in January 1975 at Vikram Sarabhai Space Centre, Thiruvananthapuram. Later he was appointed as Office Clerk 'A' on a regular basis in the Accounts Division from 10.02.1977. He was promoted as Office Clerk 'B' on 02.02.1983 as Accounts Assistant 'A' on 10.01.1993, as Assistant Accounts Officer on 29.08.1997, as Accounts Officer on 04.02.2004. Later he became Senior Accounts Officer on 22.09.2005 and he is continuing in the said post. He is aspiring for the post of Head, Accounts & IFA and having been included in the zone of consideration for promotion he was called for interview. He was called for the interview held on 25.03.2010 and the Selection/ Committee assessed the Annual



Confidential Reports for the past five years. But in the case of the applicant, Annual Confidential Reports for the three years from 01.01.2005 to 31.12.2007 were not available in the Department as it appears that those were removed from the files, any way the reason for the non production of the file is not specifically ascertainable. There is an allegation of malafides that the 5th respondent was appointed two months prior to the CR period and his assessment has materially affected the chances of the applicant for promotion especially he himself was in the Interview Board to interview the applicant. Juniors have found a place in the select list and challenging the select panel, the applicant has filed this OA.

2. In the reply statement filed the allegation that the ACR for the period from 2005 to 2007 were removed from the ACR Dossier with the connivance of the 5th respondent is denied as totally baseless. The ACR Dossiers of officers in Administrative areas including the applicant are maintained centrally at ISRO HQrs, Bangalore under the overall control of Senior Head, P&GA/OSD, ISRO HQrs and the 5th respondent does not have any direct access to the completed ACR Dossier of the applicant being maintained at ISRO HQrs, Bangalore. The allegation that the APAR gradings for the period from 03.08.2009 to 31.12.2009 is downgraded from AA (tending to Outstanding) to A (Very Good) it is submitted that as per the extant instructions on APAR, there are the Reporting, Reviewing and Countersigning authorities who write a given APAR and the 2nd and 3rd authorities have an inherent authority to modify upwards or downwards the gradings awarded by one level below authority. Copy of the finalized APAR is given to each employee for either acceptance or appealing. However, in the case of the applicant, the APAR grading for the period 2009 was not at



all ready and was not taken into account by the Departmental Promotion Committee while considering the applicant for the post of Head, Accounts & IFA on 25.03.2010. Therefore, the allegation of the applicant is denied as factually incorrect and baseless. According to the respondents, the applicant qualified for the ACR assessment but could score only 29.5 marks out of 70 for the interview and thereby failed to get the required minimum of 50% (35 out of 70) in the interview. Even if full score is taken in the case of the applicant as against 22.2 scored by him, he would still not qualify for empanelment as he failed to score minimum 50% marks in the interview.

3. We have heard the counsel on both sides. Though the applicant has alleged against the 5th respondent also contended that three years assessment records were removed, in the absence of better materials on record and in the light of subsequent contentions in the reply statement, the allegation has no substance. However, there is another point raised by the applicant that for the interview 70 marks have been prescribed and 35 marks out of 70 is the minimum marks to be obtained by a candidate for being empanelled in the select list. It is contended that prescribing 70 marks for interview is highly excessive. Reliance is also placed on the decision of the Apex Court in **Director General, Indian Council for Agricultural Research and Others vs. D.Sundara Raju (2011) 2 SCC (L&S) 164**. The learned counsel for respondents on the other hand would contend that after appearing for the interview and having found not successful, it is not open for the applicant to turn around and challenge the selection as bad and the prescription of the interview marks would in any way affect the process of selection. Reliance is also placed in the case of **(1998) 3 SCC 694, Union Of India & Anr. Vs. N. Chandrasekharan & Ors.**



4. We have perused the two decisions cited above. The decision cited by the counsel for respondents is distinguishable on facts. The Hon'ble Apex Court held that the applicants were aware of the procedure for selection viz., that there is a written test followed by an interview and assessment of the CRs in the office memorandum. The marks prescribed for written test, interview and confidential report were 50, 30 and 20 marks respectively. It was also prescribed that to qualify for promotion, one should get minimum of 50% prescribed for each head and also 60% in the aggregate. In para 13 the Apex Court held that " we have considered the rival submissions in the light of the facts. It is not in dispute that all the candidates were made aware of the procedure for promotion before they sat for the written test and before that appeared before the Departmental Promotion Committee. Therefore, they cannot turn around and contend later later when they found they were not selected by challenging that procedure and contending that the marks prescribed for interview and confidential reports are disproportionately high and authorities cannot fix a minimum to be secured either at interview or in the assessment on confidential report." Here there is no plea raised anywhere that the candidates were aware of the procedure for selection before they sat for the written test or interview. Therefore, only if they are aware of the procedure of selection they could be estopped from challenging the selection. On the other hand, the Apex Court in *Director General, Indian Council for Agricultural Research and Others vs. D.Sundara Raju* has categorically held after referring to all previous decisions on the point allocation of 50% for interview was highly excessive and totally unjustified particularly when the fact that interview would also be held to evaluate suitability of the candidate for selection for such post was not disclosed to the respondent candidate. In this case, for



the reason that the interview marks were 70 which is highly excessive. While finally determining the suitability was not disclosed to the candidates and there is no plea regarding the same. In the circumstances following the decision of the Apex Court for prescription of marks secured for the interview is excessive, therefore the entire selection procedure is liable to be struck down. The candidates who have been selected have been made parties and they have not filed any reply or contested the matter.

5. In the circumstances, we set aside the selection for the post of Head, Accounts & IFA. Let a fresh selection be conducted after suitably amending the selection procedure in accordance with what is stated above and in accordance with the decisions of the Apex court stated in the above two decisions.

6. OA is **allowed** to the above extent. No costs.

Dated, the 17th May, 2012.



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER

VS