

OA NO. 583/2005

CORAM

1 K.K. Joshwa
Presently working as
Superintendent of Police(Non-IPS Cadre)
Vigilance & Anti Corruption Bureau (VACB)
Pattom, Thiruvananthapuram -695 004

..Applicants

Vs.

Respondents

ORDER

(a) To declare that the action of the respondents in not expeditiously convening the meeting of the Selection Committee for finalising the Select List 2005 for promotions to IPS Kerala Cadre, is arbitrary, unreasonable and violative of Articles 14 & 16 of the constitution of India.

(b) To issue an appropriate order or direction, to direct the respondents more particularly respondents 1, 2 & 4, to forthwith convene the meeting of the Selection Committee for promotion to the IPS, Kerala Cadre and to consider the applicants for inclusion in the Select List 2005 for promotion to the IPS, Kerala Cadre for the 3 vacancies and to promote them accordingly, by issuing the necessary notification in that regard, without any delay and to further direct the respondents to complete all the necessary formalities including the issuance of the notifications approving the Select List 2005 and granting appointments in that regard, as early as possible, at any rate, before end of September, 2005 or immediately thereafter.

© To issue such other directions and orders as this Hon'ble Tribunal may deem fit to grant in the facts and circumstances of the case, in the interest of justice and equity.

2 The applicants are aggrieved by the inaction on the part of the respondents in convening the meeting of the DPC/Selection Committee for finalisation of the Select List of 2005 for appointment to the IPS (Appointment by Promotion) Kerala Cadre in respect of the vacancies in the IPS promotion quota. According to them, the Committee is under statutory obligation under the Regulations to meet on 1.1.2005 or immediately thereafter for the vacancies set apart for 2005.

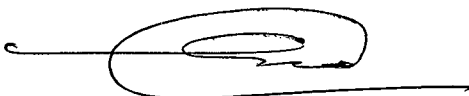
3 in the reply statement filed on behalf of the respondents 1, 2 & 3, they have contended that the Central Government in consultation with the State Government determined three vacancies for preparation of the Select List of 2005 for promotion to the IPS of Kerala Cadre and thereafter the State Government was requested by letter dated 15.3.2005 to send a self contained proposal for preparation of the Select List. The UPSC had held various consultations with the State Government. However, a proposal was not received for preparation of the Select List for 2005. In the meantime the Government of India vide letter dated 29.7.2005 kept the determination of three vacancies conditional and in abeyance until further orders in view of the interim order dated 20.4.2005 of this Tribunal in MA 399/2005 in OA 211/2005 filed by Shri Ramadasan Pothen. Therefore the UPSC could take further action only after proposals are received from the State Government.

4 The respondent No. 4 namely the State Government filed a reply confirming the position as stated above that the Government of India had kept in abeyance the convening of the Selection Committee in view of the direction of the Tribunal in M.A 399/2005 in OA 211/2005 filed by Shri Ramadasan Pothen. Therefore they were not in a position to send proposal to the UPSC in view of the uncertain position in the matter of number of vacancies. They have also submitted that according to the proviso to Regulation 5(1) there is no time frame for convening the meeting during a year even

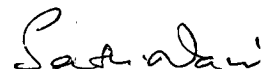
though Regulation envisages yearly convening of the Committee it further provides for convening of the meeting even in subsequent year or years. It is also submitted that 1st of January of the year for which the meeting is held is only the crucial date for determining the eligibility of a State Police Service Officer for promotion to IPS, and not for holding the meeting. Hence the applicants are eligible for consideration, there is no reason for them to contend that they will be excluded from the zone of consideration. Therefore the OA is devoid of any merit and is liable to be dismissed.

5. It is seen from the above pleadings that the meeting of the Selection Committee for the year 2005 could not be held due to uncertainty regarding the number of vacancies that had arisen as a result of the interim order of the Tribunal in O.A. 211/2005 in which a direction was given that the non-appointment of the applicant in that OA namely Shri Ramadasan Pothan solely on the ground of the expiry of the select list will be subject to the outcome of the OA. Shri Ramadasan Pothan had been included in the select list of 2004 at Sl. No. 3 subject to grant of integrity certificate by the State Government and he could not be appointed to the IPS as the integrity certificate was not granted which question had been challenged before this Tribunal in O.A. 211/2005. This OA has since been dismissed by this Tribunal on 12.12.2005 and hence there is no impediment for the respondents now to take action to convene the Selection Committee meeting. When the matter came up for hearing the counsel on either side concurred that this was the position, As on date. Accordingly the respondents are directed to take steps forthwith to convene the meeting of the Selection Committee for preparation of the Select List 2005 for promotion to the IPS Kerala Cadre and consider the applicants if otherwise eligible in accordance with the provisions of the IPS (Appointment by Promotion) Regulations 1955. The OA is disposed of as above. No costs.

Dated the 23rd December, 2005.



KV SACHIDANANDAN
JUDICIAL MEMBER



SATHI NAIR
VICE CHAIRMAN

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.35/06 & O.A.583/05

Wednesday this the 25th day of January 2006

C O R A M :

**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN
HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER**

O.A.35/06

G.K.Sreenivasan,
Presently working as Superintendent of Police
(Non IPS Cadre), CB CID, Palakkad.

...Applicant

(By Advocate Mr.Alexander Thomas)

Versus

1. The Selection Committee for Appointment
by Promotion to IPS, Kerala Cadre
represented by its Chairman -
Chairman, Union Public Service Commission
(UPSC) Shajahan Road, New Delhi.
2. Union Public Service Commission (UPSC)
represented by its Secretary,
Shajahan Road, New Delhi.
3. Union of India represented by
Secretary to Government of India,
Ministry of Home Affairs,
Grih Mantralaya, New Delhi - 110 001.
4. State of Kerala represented by
Chief Secretary to Government of Kerala,
General Administration (Special A) Dept.
Government Secretariat Buildings,
Thiruvananthapuram - 695 001.

...Respondents

(By Advocate Mr.TPM Ibrahim Khan,SCGSC [R1-3])

O.A.583/05

1. K.K.Joshwa,
Presently working as Superintendent of Police
(Non IPS Cadre), Vigilance & Anti Corruption Bureau
(VACB), Pattom, Thiruvananthapuram – 695 004.
2. P.K.Madhu,
Presently working as Superintendent of Police
(Non IPS Cadre), Vigilance & Anti Corruption Bureau
(VACB), Southern Range(SR), Thiruvananthapuram. ...Applicants

(By Advocate Mr.Alexander Thomas)

Versus

1. The Selection Committee for Appointment
by Promotion to IPS, Kerala Cadre,
represented by its Chairman -
Chairman, Union Public Service Commission
(UPSC), Shajahan Road, New Delhi.
2. Union Public Service Commission (UPSC)
represented by its Secretary,
Shajahan Road, New Delhi.
3. Union of India represented by
Secretary to Government of India,
Ministry of Home Affairs,
Grih Mantralaya, New Delhi – 110 001.
4. State of Kerala represented by
Chief Secretary to Government of Kerala,
General Administration (Special A) Dept.
Government Secretariat Buildings,
Thiruvananthapuram – 695 001. ...Respondents

(By Advocate Mr.TPM Ibrahim Khan,SCGSC[R1-3] & Mr.Renjith A,GP[R4])

These applications having been heard on 25th January 2006 the
Tribunal on the same day delivered the following :

ORDERHON'BLE MRS.SATHI NAIR, VICE CHAIRMAN

A similar prayer has been made by the two applicants in OA 583/05. Since the reliefs claimed for in the O.As are identical, these O.As are heard and disposed of together today. The applicants in these O.As have challenged the inaction on the part of the respondents in convening the Selection Committee for appointment by promotion to the IPS, Kerala Cadre, for selection in respect of the three vacancies in the IPS promotion quota, for which the committee was to meet on 1.1.2005 or immediately thereafter, for the finalisation of the Select List 2005. It is submitted that the applicants are due to retire from the State Police Service on 31.1.2006 and it is prayed that necessary direction may be issued stating that the retirement of the applicants from the State Police Service shall not affect their rights to be considered for promotion to the IPS.

2. When the matter came up for hearing on 20.1.2006 counsel for the respondents was directed to get instructions about the convening of the Selection Committee meeting from the UPSC. Counsel for the respondents on instructions submitted that the Selection Committee meeting for preparation of the Select List of 2005 to the IPS, Kerala Cadre is fixed on 30.1.2006 and hence the main prayer in these O.As has already been settled by this decision of the respondents. Further prayer of the

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applicants as submitted by the counsel for the applicants is that since the applicant in O.A.35/06 and 2nd applicant in O.A.583/05 ^{she} retiring on 31.1.2006, a declaration may be given that the retirement of the applicants from the State Police Service shall not in any manner prejudicially affect their rights to be considered for IPS promotion in Kerala Cadre as per Select List 2005 and their rights for such promotion. We are of the view that in these circumstances this prayer shall also be granted and accordingly we declare that the retirement of the applicant in O.A.35/06 and 2nd applicant in O.A.583/05 shall not affect their rights to be considered for promotion and further selection to IPS Cadre for the year 2005. Both these O.As are allowed accordingly. No order as to costs.

(Dated the 25th day of January 2006)

GEORGE PARACKEN
JUDICIAL MEMBER

SATHI NAIR
VICE CHAIRMAN

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