

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.NO. 70/2005

TUESDAY, THIS THE 22nd DAY OF NOVEMBER, 2005

CORAM

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

K.C. Elamma
Superintendent of Police
State Police Women's Cell
Thiruvananthapuram.

.....Applicant

By Advocate Mr. Joy George

Vs.

- 1 Union of India represented
by the Secretary
Ministry of Personnel & Training
New Delhi.
- 2 Union Public Service Commission
represented by the Secretary
New Delhi.
- 3 State of Kerala represented by
the Chief Secretary
Government Secretariat
Thiruvananthapuram.

...Respondents.

By Advocate Mr. TPM Ibrahim Khan for R 1-2
Mr. R. Muraleedhran Pillai, Sr. GP for R-3
and Mr. Ranjith A, GP

ORDER

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

The Applicant in this O.A. is challenging the non-inclusion of her name in the Select list for the year 2004 for conferment of IPS. She is presently working as Superintendent of Police, State Police Womens' Cell,

Thiruvananthapuram. According to her, she is the seniormost and the most eligible candidate having outstanding track records in Sports and Games and being the first woman to receive the unique Arjuna Award. Earlier when she was denied promotion to the Deputy Superintendent of Police, she had approached the Hon'ble High Court of Kerala by way of W.P.25414/2004 and the Hon'ble High Court had declared the applicant to have been promoted to the post of Deputy Superintendent of Police w.e.f. 1.4.1995 for all purposes on the basis of the date of promotion of her junior and regarding her eligibility for consideration for conferment of IPS, held that she is eligible to be considered for conferment of IPS by the selection committee after 31.3.2003. But unfortunately even after this finding, the name of the applicant has not been included in the list forwarded by the Government. According to a news item reported in Malayala Manorama Daily dated 17.1.2005 (Annexure A2) the name of the applicant does not figure in the list said to have been sent by the State Government to the Central Government for conferment of IPS. She has sought the following reliefs:

- (i) to call for the records leading up to the select list of the persons for the conferment of IPS and to quash the same
- (ii) to direct the respondents to consider the applicant for the conferment of IPS being the senior most and most appropriate candidate.
- (iii) to grant such other awards as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of this case.
- (iv) to award the cost of this proceedings

2 The second respondent namely the Union Public Service Commission in the reply statement filed has submitted that UPSC being a Constitutional body discharges the functions, duties and constitutional obligations assigned to them under Article 320 of the Constitution and by virtue of the provisions made in the All India Services Act, 1951, separate Recruitment rules have been framed for the IAS/IPS/IFS. In pursuance of these provisions, the IPS (Appointment by Promotion) Regulations, 1955 have been made. The Selection Committee presided over by the Chairman/Member of the UPSC makes selection of State Police Service officers for promotion to the IPS. The UPSC after taking into consideration the records received from the State Government under Regulation

6 and observations of the Central Government received under Regulation 6A of the Promotion Regulations, take a final decision on the recommendations of the Selection Committee in accordance with the provisions of Regulations. Under the Regulation the State Government is required to send the seniority list of State Police Service Officers and list of eligible officers along with their service records like ACRs, integrity certificate, certificate regarding pendency of disciplinary proceedings, details of rewards/penalties etc. Therefore the issues relating to the above have to be answered by the State Government. Regarding the convening of the Selection Committee by the UPSC they submitted the factual position as follows:

6.1 It is submitted that for the year 2004 the Government of India, Ministry of Home Affairs determined six vacancies in the promotion quota for promotion to IPS of Kerala Cadre. A proposal from the State Government (dated 9.11.2004) for convening the IPS Selection Committee Meeting was received in the UPSC on 24.11.2004. As the proposal was not complete, the deficient documents were called for from the State Government. That in the meantime, the Hon'ble CAT, Ernakulam Bench vide their order dated 15.12.2004 in OA No. 861/04 filed by Shri AM Mathew a Policarp & another, directed the respondents to hold the Selection Committee Meeting well before 31.12.2004. Accordingly, the Selection Committee Meeting was initially scheduled for 22.12.2004. However, the State Government vide letter dated 21.11.2004 expressed their inability to be present on the scheduled date and as such, the Selection Committee was rescheduled for 30.12.2004 to prepare the IPS Select List of 2004.

6.2 It is further submitted that in WP(C) No. 25414/04 and 32377/03 filed by Smt. K.C. Elamma (the applicant in the instant OA), the Hon'ble High Court vide order dated 7.10.2004 passed the following orders:

'There will be a direction to the respondents to ignore all the orders passed hitherto denying the benefit of promotion as Deputy Superintendent of Police as on 1.4.1995 and denying her the benefit of consideration for conferment of IPS on the ground that she had not completed eight years of service in the cadre of Deputy Superintendent of Police. Consequently, there will also be a direction to treat her as eligible for consideration by the Selection Committee after 31.03.2003.'

6.3 In compliance of the above orders of the Hon'ble High Court of Kerala, the Selection Committee considered the name of Smt. K.C. Elamma, the applicant herein, in addition to the normal zone. Since, the State Government had pointed out that the post of Superintendent of Police, Womens' Cell, Thiruvananthapuram, held by Smt. K.C. Elamma

(applicant herein) is not forming part of the General Executive of Kerala State Police Service or declared equivalent thereto.

6.4 The Selection Committee which met on 30.12.2004 considered the name of the applicant in compliance with the interim orders of the Hon'ble High Court in WP(C) NO. 25414/04 and 32377/03, for promotion to the IPS cadre of Kerala. The officer's name was considered at S.No. 18 in the eligibility list. On an overall assessment of her service records, the Committee graded the applicant as 'Very Good'. However, her name was not included in the list of officers selected for promotion to the PS cadre of Kerala during the year 2004 due to the statutory limit on the size of the Select List and that officers with a similar grading, but senior to the applicant in the eligibility list were available for inclusion against the 6 vacancies for the year 2004 in terms of Regulation 5(4) and 5(5).

3 A reply statement has also been filed on behalf of the third respondent - the Government of Kerala. It is stated that the main prayer of the applicant that she may be considered for the IPS selection for the year 2004 has already been met with and hence she has no case to proceed with the O.A. The IPS Selection Committee for the year 2004 considered the applicant but she was not included in the Select List prepared by the Selection Committee. The committee had considered 18 State Police Service officers in the zone of consideration for making selection against 6 numbers of vacancies which arose in the cadre during the period from 1.1.2003 to 31.12.2003. The applicant was also included in the zone of consideration in obedience to the order of the Hon'ble High Court of Kerala in WP No. 25414/04. As there is a statutory limit on the size of the select list as provided for under Regulation 5 of the IPS (Appointment by Promotion) Regulation 1955, the applicant did not find a place in the select list.

4 We have heard the learned counsel for both sides and perused the records produced before us. The main prayer of the applicant is for a direction to consider her for promotion to IPS for the year 2004. From the above reply statements filed by the respondents it is clear that the applicant has been considered in the meeting of the Selection Committee held on 30.12.2004 in compliance of the orders of the Hon'ble High Court in WP No. 25414/04, as S.I. NO. 18 in the eligibility list. On assessment of the service records, the Committee found the applicant ineligible to be included in the Select List.. For

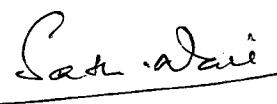


the preparation of the Select List, the Selection Committee has to classify the eligible officers as 'Outstanding', 'Very Good', 'Good' or 'Unfit' as the case may be and the Select List is prepared by including the required number of names first from the officers who have been graded as 'Outstanding', then among those classified as 'Very Good' and thereafter those classified as 'Good' and the order of names shall be in the order of seniority in the State Police Service. There is a statutory limit on the number that could be included in the Select List which is equal to the number of substantive vacancies. Due to this restriction, against 6 vacancies in the year 2004 the applicant could not be included in the Select List. The action of the respondents is strictly in accordance with the rules and regulations. The prayer of the applicant is only for a direction to consider which has already been complied with. Nothing more survives in this Application. The OA is therefore dismissed. No costs.

Dated 22.11.2005.



GEORGE PARACKEN
JUDICIAL MEMBER



SATHI NAIR
VICE CHAIRMAN

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