

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 109/2008

THURSDAY THIS THE 24th DAY OF APRIL, 2008

C O R A M.

**HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE DR. K.S. SUGATHAN, ADMINISTRATIVE MEMBER**

S. Lalithambika
Deputy Collector(Vigilance)
South Zone, Museum Bains Compound
Kawdiar PO, Thiruvananthapuram

Applicant

By Mr. Nandakumara Menon Senior with M/s. P.K. Manoj kumar &
Sushya Rajan

Vs

- 1 The Union of India represented by its Secretary
Department of Personnel & AR, New Delhi.
- 2 The Union Public Service Commission
represented by its Secretary,
Shahjahan Road, New Delhi.
- 3 The State of Kerala represented by the
Chief Secretary to Government
General Administration Special (A) Department
Government Secretariat,
Thiruvananthapuram.
- 4 The Selection Committee for Appointment by
Promotion to the Indian Administrative Services
Kerala Cadre represented by its Chairman,
UPSC, Shahjahan Road,
New Delhi. Respondents.

By Advocate Mr. Thomas Mathew Nellimoottil for R 2 & 4

By Advocate Mr. TPM Ibrahim Khan, SCGSC for R 1

By Advocate Mr. R. Premsankar GP for R-3

ORDER

HON'BLE DR. K.S. SUGATHAN ADMINISTRATIVE MEMBER

The applicant in this O.A is now working as Deputy Collector Vigilance (South Zone) in the Land Revenue Department of the Government of Kerala. She was originally appointed in the year 1993 and was regularised in the post of Deputy Collector w.e.f. 15.8.1994. The applicant is the seniormost Deputy Collector in the State Civil Service eligible to be considered for appointment by promotion to the Indian Administrative Service in accordance with the Indian Administrative Service (Appointment by Promotion) Regulations, 1955. There are reported to be two vacancies in the promotion quota for the year 2007 in the Kerala cadre of IAS. The Selection Committee meeting for selecting the State Civil Service officers for promotion to IAS for the year 2007 ought to have been convened before 31.12.2007. However, the said meeting has not been convened so far. Aggrieved by the delay in convening the meeting of the selection committee for the year 2007, the applicant has filed this O.A seeking the following reliefs:

"A. For the reasons stated in the above Original Application it is humbly prayed that his Hon'ble Central Administrative Tribunal may kindly be pleased to direct the respondents to immediately convene the meeting of the Select Committee for preparation of the list of suitable officers from the State Civil Services (Executive) for appointment by promotion to the Indian Administrative Service (Kerala Cadre) for the year 2007 in accordance with Regulations 5, 6(A) & 7 of the Indian Administrative Service (Appointment by Promotion) Regulations 1955

B For the reasons stated in the above Original Application it is humbly prayed that his Hon'ble Central Administrative Tribunal may kindly be pleased to direct the respondents to consider the applicant for appointment by promotion to the Indian Administrative Service and for inclusion in the 2007 Select List in accordance with Regulations 5, 6(A) & 7 of the IAS Appointment by Promotion Regulations, 1955."

2 Respondent No.2 namely the Union Public Service Commission and Respondent No. 3 namely the State of Kerala have filed their reply statements. The respondent No.2 and 4 have also filed a supplementary statement.

3 It has been contended on behalf of Respondents No. 2-4 that as per Regulation 5(1) of the Indian Administrative Service (Appointment by Promotion) Regulations 1955, the Selection Committee shall ordinarily meet every year and prepare a list of such members of the State civil services as are suitable for promotion to the IAS. It is also provided in the Regulations that where no meeting of the committee could be held during the year for any reason other than that provided for in the first proviso, as and when the committee meets again the select list shall be prepared separately for each year during which the committee could not meet, as on 31st December of each year. The Government of Kerala has submitted ^{an} incomplete proposal in the last week of December, 2007. The UPSC therefore vide their letter dated 28.12.2007 asked the State Government to rectify the deficiencies. However, the State Government could not furnish the revised proposal before 31.12.2007. The UPSC therefore advised the State Government to submit complete proposals in respect of 2007 and 2008. The second proviso to Regulation 5(1) deals with an eventuality when the Selection Committee meeting could not be convened for a particular year. The promotion regulations protects the interest of the officers who are eligible for earlier years by considering them for the years for which they were eligible and preparing separate select list for each year. The select lists for 2007 and 2008 are to be prepared separately as and when the committee meets again. Therefore a complete proposal is required from the Government of Kerala to convene the Selection Committee meeting to prepare the select list of 2007 and 2008.

4 The Government of Kerala in their reply have contended that a proposal for convening the Selection Committee meeting for the year 2007 was forwarded to the UPSC on 21.12.2007. The name of the applicant was included in the list of officers eligible for consideration. The UPSC in turn have advised the State Government to rectify some deficiencies in the document vide their letter dated 28.12.2007. Accordingly, steps are being taken to rectify the

deficiencies. In the meanwhile vide letter dated 18.1.2008 the UPSC has informed that in terms of Regulation 5(1) select list for the current year namely 2008 is also to be prepared concurrently with the select list for the previous year. Accordingly, the State Government is taking expeditious action for forwarding the proposal for both 2007 and 2008.

5 We have heard the learned counsel for the applicant Shri N. Nandakumara Menon senior with Shri P.K. Manoj Kumar and learned counsel for respondents No.1 Smt. Jisha for Shri TPM Ibrahim Khan, SCGSC, the learned counsel for Respondent No.2 & 4 Shri Thomas Mathew Nellimoottil and Mr. Premsankar GP for R-3. We have also perused the records carefully.

6 The limited issue for consideration in this O.A. is whether it is mandatory under the second proviso to clause 5(1) of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 to combine the meeting of the Selection Committee for a particular year along with the meeting of the next year when the meeting for the previous year could not be held before 31.12.2007. The UPSC has advised the State Government to send proposal in respect of both the years of 2007 and 2008 because the proposal in respect of the year 2007 was delayed. We have considered the second proviso to Rule 5 (1) of Indian Administrative Service (Appointment by Promotion) Regulations, 1955. The said proviso reads as follows:-

"Provided further where no meeting of the Committee could be held during a year for any reason other than that provided for in the first proviso, as and when the Committee meets again, the Select List shall be prepared separately for each year during which the Committee could not meet, as on the 31st December, of each year."

7 The above proviso envisages preparation of a separate select list for every year whenever the subsequent meeting takes place. It does not say that the meeting of the Selection committee which could not be held in a particular year has to be necessarily held along with the meeting of the next year. The

practice of holding combined meeting could be for the purpose of administrative convenience. But we are of the considered view that there is no legal requirement for combining the meeting for the year 2007 with the meeting for the year 2008. The Selection committee meeting for the year 2007 ought have been convened before 31.12.2007. But on account of delay in submission of proposal from the State Government the said meeting could not take place. However, we do not see any justification for postponing the Selection committee meeting for the year 2007 till the compilation of the necessary documents for preparing the proposal for the year 2008 is completed. It is reported by the counsel for the State Government today in the court that the State Government has already re-submitted the proposal for the year 2007 as per the interim direction issued by this Tribunal on 31.3.2008. We therefore consider it appropriate to give a direction to the UPSC to convene the Selection committee meeting for the year 2007 within a period of one month from the date of receipt of the proposal re-submitted by the State Government of Kerala.

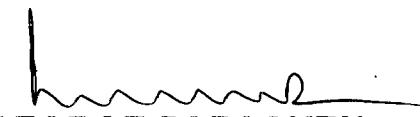
8 For the reasons stated above the O.A. is allowed to the extent that the respondent No. 2 is directed to convene the Selection committee meeting for promotion to the Indian Administrative Service, Kerala cadre for the year 2007 within a period of one month from the date of receipt of the proposal resubmitted by the State Government of Kerala as per the interim direction of this Tribunal on 31.3.2008. In the circumstances there shall be no order as to costs.

Copy of this order be communicated to respondent No.2 and 3 by Speed Post immediately.

Dated 24.4.2008



K.S. SUGATHAN
ADMINISTRATIVE MEMBER



GEORGE PARACKEN
JUDICIAL MEMBER