

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

**Original Application No. 06 of 2013
with**

Original Application No. 14 of 2013

FRIDAY, this the 26th day of July, 2013

CORAM:

HON'BLE Dr. K.B.S. RAJAN, JUDICIAL MEMBER

HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

1. O.A. No. 06 of 2013

T. Gopalakrishna Pillai,
Superintendent of Police (Non-IPS),
S/o. Thankappan Pillai, Aged 56,
Residing at Lakshmi House, Arinallor South PO,
Kollam – 690 538
Now working as Deputy Police Commissioner
Cochin City

... Applicant.

(By Advocate Mr.S.Sreekumar, Senior with Mr.Saju Wahab)

versus

1. Union of India represented by its Secretary
Ministry of Home Affairs
New Delhi – 110 012
2. Union Public Service Commission represented
by its Secretary, Shajahan Road
New Delhi – 110 011
3. The Selection Committee for Selection to Indian
Police Service Constituted under Regulation 3 of the
Indian Police Service (Appointment by promotion)
Regulations 1955, represented by its Chairman,
Union Public Service Commission
New Delhi – 110 001
4. The State of Kerala represented by Chief Secretary
Government Secretariat, Trivandrum – 695 001
5. The State Police Chief, Police Head Quarters
Trivandrum – 695 001

6. D. Madhu, Superintendent of Police (Non-IPS) (Retd.)
T.C. 27/1101(1), Vanchiyoore P.O.,
Thiruvananthapuram : 695 035
 7. B. Ashokan, Superintendent of Police (Non-IPS),
Crime Branch CID, Organized Crime Wing,
Kannur : 670 001
 8. T.K. Haridas, Superintendent of Police (Non-IPS),
Vigilance Officer, Excise Department,
Thiruvananthapuram : 695 001
 9. D. Sali, Superintendent of Police (Retd.) (Non-IPS),
Nisha, 2/88, Kalaripparambu P.O., Kozhikode - 673010
 10. P.A. Valsan, Superintendent of Police (Non-IPS),
Economic Offence Wing - 2,
Crime Branch CID, Kozhikode : 673 010
 11. V.N. Sasidharan, Superintendent of Police (Non-IPS),
Vigilance and Anti Corruption Bureau, Special Cell,
Thiruvananthapuram : 695 001
- Respondents.

(By Advocate Mr. Sunil Jacob Jose, SCGSC (R-1)
 Advocate Mr. Thomas Mathew Nellimoottil, Nodal Counsel (R2&3)
 Advocate Mr. A. Renjith, Sr. GP (R4&5)
 Advocate Mr. C. Unnikrishnan (R6)
 Advocate Mr. R. Sreeraj (R7 & 11)
 Advocate Mr. M.R. Hariraj (R8)
 Advocate Dr. K.P. Satheesan (Sr.) with Mr. P. Mohandas (R9)
 Advocate Mr. Elvin Peter P.J. (R10)

2. O.A. No. 14 of 2013

1. Jacob Job, aged 54 years, S/o. P.C Job,
Director, Women's Commission,
Thiruvananthapuram,
Residing at Pulimoottil House,
Fathimapuram, Changanacherry,
Kottayam District.
 2. Gopal Krishnan. V, aged 54 years,
S/o. P. Vasudeva Panicker,
Principal, Police Training College,
Thycaud, Thiruvananthapuram,
Residing at "Makayiram",
House No. VP 5/896, Mannayam Road,
Puliyarkonam P.O., Thiruvananthapuram
- Applicants.

(By Advocate Mrs. Sumathi Dandapani (Sr.) with Mr. Mathew Kuriakose)

versus

1. Union of India represented by its Secretary
Ministry of Home Affairs
New Delhi – 110 012
2. Union Public Service Commission
Represented by its Secretary,
Shajahan Road, New Delhi – 110 011
3. The Selection Committee for Indian Police Service
Represented by its Chairman,
Union Public Service Commission
Shajahan Road, New Delhi – 110 001
4. State of Kerala represented by Chief Secretary to
Government, Secretariat, Trivandrum – 695 001
5. State Police Chief, Police Head Quarters
Thiruvananthapuram – 695 001
6. D. Madhu, Superintendent of Police (Non-IPS) (Retd.)
T.C. 27/1101(1), Vanchiyoor,
Thiruvananthapuram : 695 035
7. B. Ashokan, Superintendent of Police (Non-IPS),
(Crime Branch CID), Organized Crime Wing,
Kannur : 670 001
8. T.K. Haridas, Superintendent of Police (Non-IPS),
Vigilance Officer, Excise Department,
Thiruvananthapuram : 695 001
9. D. Sali, Superintendent of Police (Non-IPS) (Retd.),
"Nisha", 2/88, Kalaripparambu P.O, Kozhikode-673010
10. V.N. Sasidharan, Superintendent of Police (Non-IPS),
Vigilance and Anti Corruption Bureau, Special Cell,
Thiruvananthapuram : 695 001
11. V.Suresh Kumar, aged 56 years, S/o. N. Vasudevan,
Superintendent of Police (Non-IPS) (Retired),
Residing at "Suryamangalam", Nangiarkulangara P.O,
Harippad, Alappuzha : 690 513
12. Alex M. Varkey, aged 56 years, S/o. M.C. Varkey,
Superintendent of Police (Non-IPS) (Retired),
Residing at Moolakkunnel House, Pala P.O.,
Kottayam : 686 575

... Respondents.

(By Advocate Mr. Sunil Jacob Jose, SCGSC (R-1)
 Advocate Mr. Thomas Mathew Nellimootil, Nodal Counsel (R2&3)
 Advocate Mr. M. Rajeev, GP (R4&5)
 Advocate Mr. C. Unnikrishnan (R6)
 Advocate Mr. R. Sreeraj (R7 & 10)
 Advocate Mr. M.R. Hariraj (R8)
 Advocate Dr. K.P. Satheesan (Sr.) with Mr. Jayaprasad (R9)
 Advocate Mr. P. Nandakumar (R11&12)

These applications having been heard on 22.07.2013, the Tribunal on 26-07-13 delivered the following:

ORDER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

As the issue for consideration is one and the same in these two O.As, they were heard together and are disposed of by this common order.

2. **O.A. No. 06/2013** : The applicant being eligible was included in the zone of consideration for appointment by promotion to the IPS (Kerala) cadre against 08 vacancies in the year 2011. As per the report in the Mathrubhoomi Daily dated 23.12.2012 (Annexure A-3), a list of officers, excluding him, has been prepared by the Selection Committee in its meeting held on 21.12.2012 for appointment in the IPS (Kerala) cadre. He retired from the service of Government of Kerala on 31.03.2013. As per the order dated 17.08.2012 in O.A. No. 240/2012, his retirement will not stand in the way of considering him for appointment to the IPS, if he is otherwise eligible.

3. **O.A. No. 14/2013** : The applicants herein also though included in the zone of consideration for appointment to the IPS (Kerala) cadre against 08 vacancies in the year 2011, were excluded from the Select List as per the

aforesaid newspaper report. Both the applicants will retire in 2014.

4. To state briefly, the reliefs sought by the applicants in these O.As are:

(i) To set aside the Select List prepared by the Selection Committee in its meeting held on 21.12.2012;

(ii) To direct the respondents 1 to 3 to include the applicants in a fresh Select List to be prepared by holding a review meeting of the Selection Committee against the vacancies in the year 2010 and 2011.

5. We have carefully considered the facts placed before us and the pleadings made by the rival parties. It is seen that the applicants have filed these O.As on the basis of a news published in a newspaper in respect of a list prepared by the Selection Committee in its meeting held on 21.12.2012. The list of suitable officers prepared by the Selection Committee becomes a Select List when it is finally approved by the UPSC after consultation with Ministry of Home Affairs, Union of India and Government of Kerala and after making changes, if any, in the list. During the pendency of these O.As, as per the letter of UPSC dated 16.07.2013, approval of the UPSC of the Select Lists of 2010 and 2011 for promotion of State Police Officers to the IPS (Kerala) cadre has been communicated to the Ministry of Home Affairs, Government of India, on 05.07.2013 for further necessary action. These Select Lists are yet to be notified. Only from the Select Lists of 2010 and 2011, appointment to the IPS (Kerala) cadre can be made for the year 2010 and 2011. A report in a newspaper is not an authenticated information. The newspaper report dated 23.12.2012 refers to a list which is published including officers twice the number of vacancies available in the IPS (Kerala) cadre. The Select List from which the appointment is to be made is limited to the number of vacancies available. Only the notified Select List can give rise

to a cause of action for the applicants under Rule 19 of the Administrative Tribunals Act, 1985. Rule 19(1) of the Act reads as under :

"19. Applications to Tribunals.- (1) Subject to the other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievances.

Explanation.- For the purpose of this sub-section, "order" means an order made-

(a) by the Government or a local or other authority within the territory of India or under the control of the Government of India or by any Corporation [or Society] owned or controlled by the Government; or

(b) by an officer, committee or other body or agency of the Government or a local or other authority or Corporation [or Society] referred to in Clause (a)."

A news published in a newspaper is not an order falling within the purview of Rule 19. In the absence of notified Select List, these O.As, in our considered view, are premature as the cause of action has not arisen. Mere apprehension on the part of the applicants that they have been excluded from the Select List yet to be notified cannot be a cause of action.

6. In the result, both the O.As are dismissed as premature. However, it is made clear that we have not gone into the merits of the O.As and that as and when the Select List is notified, if the applicants are aggrieved, they are at liberty to take recourse to any legal remedy available to them. No order as to costs.

(Dated, the 26th July, 2013)

(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER

(Dr. K B S RAJAN)
JUDICIAL MEMBER

cvt.