CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
******

OA NOs.162/2002 & 163/2002

Friday, this the 14th day of June, 2002.

CORAM :

HON'BLE SHRI G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE SHRI K.V. SACHIDANANDAN, JUDICIAL MEMBER

OA No.162/2002

T.C. Thankappan, S/o Kunjankutty,
Deputy Collector(LA&LR),
Collectorate, Idukki,
Residing at Quarter No.C6,
Idukki Colony P.O., Idukki. ... Applicant

(By Advocate Raju K. Mathews)

Vs

1. Union of India, rep. by its
Secretary,
Ministry of Personnel,
Public Grievances & Pension,
Department of Personnel & Training,
New Delhi.

2. Union Public Service Commission,
rep. by its Secretary,
New Delhi.

3. State of Kerala, rep. by its
Chief Secretary,
Secretariat,
Thiruvananthapuram. ... Respondents

([Mr. P.M.M. Najeebkhan, ACGSC(R 1-2)
Mr. Renjith A., GP(R-3)]

OA No.163/2002

P.S. Prabhakaran,
S/o Sukumaran,
Deputy Collector(Elections),
Kottayam, residing at
Manapathil House,
Thellakom P.O.,
Kottayam District. ...Applicant

(By Advocate Mr. Raju K. Mathews)

Vs

1. Union of India,
rep.by its Secretary,
Ministry of Personnel,
Public Grievances & Pension,
Department of Personnel & Training,
New Delhi.

2. Union Public Service Commission,
rep. by its Secretary,
New Delhi.

3. State of Kerala,
rep. by its Chief Secretary,
Secretariat,
Thiruvananthapuram. ... Respondents

[Mr. Sunil Jose, ACGSC(R 1-2)
Mr. Renjith A., GP(R-3)]

The applications having been heard on 14.6.2002, the Tribunal on the same day delivered the following :

ORDER

HON'BLE SHRI G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

As the issues involved in both these original applications are identical, these two Original Applications were heard together and are disposed of by this common order.

2. For the sake of convenience, the details of the case in OA 162/2002 are given below.

OA 162/2002

3. The applicant entered service as Deputy Tahsildar on the advice of the Kerala Public Service Commission on 22.5.1975. He was promoted as Tahsildar on 9.4.1980 and was regularised w.e.f. 17.11.1980. He was promoted as Deputy Collector w.e.f. 8.8.1988 and was given Deputy Collector(Higher Grade) promotion w.e.f. 1.7.1992. He completed 8 years of continuous service in the cadre of Deputy Collector as on 1.1.1997. According to the applicant, there were 5 vacancies in existence as on 1.1.2001 in the Kerala Cadre of the Indian Administrative Service, meant to be filled up by appointment by promotion from among eligible Deputy Collectors in the State and therefore 14 Deputy Collects who have put in 8 years of continuous service as on 1.1.2001 should be considered for selection for appointment by promotion to the Indian Administrative Service Kerala Cadre in the order of

their respective seniority in service. The selection committee for considering the case of eligible persons for appointment by promotion to the IAS Kerala Cadre was scheduled to meet during the month of December, 2001. While so, one Mr. A.T. James approached the Hon'ble High Court of Kerala challenging the seniority list of Deputy Collectors for the period from 25.9.1962 to 31.12.1996 through O.P. No.6114/2001. The Hon'ble High Court of Kerala passed an order dated 29.10.2001 in C.M.P. No.51916/2001 in O.P. No.6114/2001, granting one month's time to the Government to file a counter affidavit. It was further ordered that if the counter affidavit was not filed within the time, all further proceedings for promotion to the Indian Administrative Service from among Deputy Collectors on the basis of seniority list of Deputy Collectors for the period from 25.9.1962 to 31.12.1996 published as per G.O.(P) No.783/97/RD dated 21.10.1997 would stand stayed w.e.f. 1.12.2001 by A1 order dated 29.10.2001. As the Government of Kerala did not file any counter affidavit, the selection process for promotion to the Indian Administrative Service, Kerala Cadre for the year 2001 stood stayed. Consequently the Selection Committee, scheduled to meet in December, 2001, for considering the eligible officers for appointment to the IAS Kerala Cadre for the year 2001 could not meet. The applicant got himself impleaded as additional 7th respondent in the O.P. and the Hon'ble High Court of Kerala dismissed the O.P. No.6114/2001 by A2 order dated 21.2.2002. As the embargo that the stay of the Hon'ble High Court of Kerala remained for convening the Selection Committee for considering eligible persons for appointment by promotion to the Indian Administrative Service, Kerala Cadre against 5 vacancies existed on 1.1.2001 was no longer there and as the applicant was due to retire from service on superannuation w.e.f. 31.3.2002, pleading that unless the Selection Committee met before that date and considered the case of the applicant along with other eligible

officers for selection for appointment by promotion to the Indian Administrative Service Kerala Cadre, he would be put to great hardship and suffering, he filed this application seeking the following reliefs :-

> (i) to direct the respondents to convene the Selection Committee for considering the eligible Deputy Collectors for appointment by promotion to the Indian Administrative Service Kerala Cadre against the vacancies in existence as on 1.1.2001 forthwith.
>
> (ii) to direct the respondents to consider the case of the applicant for appointment by promotion to the Indian Administrative Service Kerala Cadre against the vacancies in existence as on 1.1.2001.
>
> (iii) to grant such other reliefs as this Honourable Tribunal deems just and fit; and
>
> (iv) to award costs.

4. The 3rd respondent, State of Kerala, filed reply statement wherein it was submitted that since the Selection Committee could not meet before 31.12.2001, it would be open for the UPSC to take a decision in terms of Regulations 5(1)(c) of the IAS(Appointment by promotion Regulations). Accordingly the State Government had addressed the Government of India, UPSC to suggest the course of action to convene the selection to 2001.

5. The respondent No.2, UPSC filed reply statement in which it was submitted that as per the second proviso to the Regulation 5(1) of the prevailing IAS(Appointment by Promotion) Regulations, 1955 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 and since the meeting of the Selection Committee for the year 2001 could not be convened due to stay order dated 29.10.2001 of the Hon'ble High Court of Kerala, the select list of 2001 would now be prepared separately as and when the Selection Committee met

again to prepare the Select List of the year 2002 in terms of the existing provisions of the IAS Promotion Regulations. It was also submitted that in the first instance the State Government was required to get the vacancies determined by Government of India for the year 2002 and forward the requisite proposals to the Commission for convening a meeting of the Selection Committee to prepare the yearwise Select Lists for the years 2001 and 2002 and after receipt of the proposal, the Commission would examine the documents and thereafter place before the Selection Committee for preparation of the Select Lists as per the various provisions of the Promotion Regulations.

6. No reply statement was filed by respondent No.1, Union of India.

7. Heard the learned counsel for the parties. The learned counsel for the applicant Shri Raju K. Mathews took us through the factual averments as given in the Original Application and submitted that in view of the reply statement of the UPSC, the applicant would be satisfied if a direction is given to Government of Kerala to submit the proposal to the UPSC and direct the Government of India and UPSC to consider the same within a specified time limit. According to him as far as the year 2002 is concerned, the Selection Committee could meet before 31.12.2002 and as far as the selection for the year 2001 is concerned, the proposal of the Government of Kerala was already sent to Government of India & UPSC and the same need not wait for finalising the assessment of vacancies and eligibility list for 2002.

8. Learned counsel for the UPSC, submitted that when the Selection Committee met for the year 2002, the selection list for the year 2001 would also be prepared considering the officers eligible as on 1.1.2001.

9. We have given careful consideration to the submissions made by the learned counsel for the parties and the pleadings and other materials brought on record. We are of the considered view that the respondents need to be directed to complete the selection process for the year 2001 within a specified time limit for the following reasons. The Selection Committee meeting for the year 2001 should have been done within the year 2001 itself and from the pleadings, only because of the delay caused by non-filing of the reply statement in the O.P. filed by one A.T. James by the Government of Kerala within the time allowed by the Hon'ble High Court, the stay granted by the Hon'ble High Court of Kerala came in to operation and if the counter affidavit was filed by the Government of Kerala in time, the need for the applicant to approach this Tribunal would not have arisen and the selection committee for the year 2001 would have met within the year 2001 itself.

10. Under these circumstances and taking into consideration the fact that O.P. was finally decided in February, 2002 and vacancies for the year 2002 is assessed on the basis of the vacancies existing as on 1.1.2002, we direct the respondents to finalise the Select List for the year 2001 within a period of three months from the date of receipt of a copy of this order. If within three months the respondents are able to finalise all

action required for the year 2002 also, simultaneously lists for both the years can be finalised, otherwise the select list for the year 2001 shall be finalised within the above specified time.

11. The OA 162/00 stand disposed of as above. No costs.

OA 163/2002

. The reliefs sought by the applicant in this OA are as follows :-

(i) to direct the respondents to convene the Selection Committee for considering the eligible Deputy Collectors for appointment by promotion to the Indian Administrative Service Kerala Cadre against the vacancies in existence as on 1.1.2001 forthwith.

(ii) to direct the respondents to consider the case of the applicant for appointment by promotion to the Indian Administrative Service Kerala Cadre against the vacancies in existence as on 1.1.2001.

(iii) to grant such other reliefs as this Hon'ble Tribunal deems just and fit; and

(iv) to award costs.

2. As the facts in this OA are similar to OA 162/2002, the orders given by us in the above mentioned OA 162/2002 would apply equally in this OA. The OA stand disposed of accordingly. No costs.

Dated the 14th June, 2002.

K.V. SACHIDANANDAN
JUDICIAL MEMBER

G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

oph

A P P E N D I X

Applicants' Annexures:
O.A 162/2002 & O.A 163/2002

1. A-1 : True copy of the order in CMP No.51916/2001 in O.P.No.6114/2001 dated 29.10.2001.
2. A-2 : True copy of the Judgement dated 21.2.2002 in O.P.No.6114/2001.

****

npp
21.6.02