

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 21 of 2011

Tuesday, this the 04th day of September, 2012

CORAM:

Hon'ble Mr. Justice P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

R. Rajendran, Aged 59,
 S/o. N.K. Ramakrishna Panicker,
 [Deputy Conservator of Forests
 (Non-Cadre) (Retd.),
 Agasthiavanam Biological Park (SIP),
 Forest Headquarters, Trivandrum-14],
 Residing at 'SARAS', No. TC 75/142,
 Anayara PO, Trivandrum-29.

..... **Applicant**

(By Advocate – Mr. P.V. Mohanan)

V e r s u s

1. Union of India, represented by The Secretary to the Government of India, Ministry of Forest & Environment, New Delhi.
2. State of Kerala represented by the Chief Secretary to the Government of Kerala, State Secretariat, Trivandrum.
3. The Principal Secretary, Forest & Wild Life Department, Trivandrum-4.
4. Union Public Service Commission, Shajahan Road, Dholpur House, New Delhi-through its Secretary.

..... **Respondents**

**[By Advocates – Mr. Thomas Mathew Nellimoottil,
 Senior Panel Counsel (R1&4) &
 Mr. M. Rajeev, GP (R2&3)]**

This application having been heard on 17.08.2012, the Tribunal on 04-09-12 delivered the following:

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ORDER

By Hon'ble Mr. K. George Joseph, Administrative Member-

The applicant who retired as Deputy Conservator of Forests (Non-cadre) on 30.4.2006 has filed this OA on 7.1.2011 for a direction to the respondents to appoint him on promotion quota IFS (Kerala) cadre in the senior time scale of pay from the select list of 1995 with all consequential benefits on the following grounds:-

He was included in the select list for the year 1994-95 conditionally as he was under cloud. When he was exonerated later from the criminal charges, he should be deemed to have been appointed from the select list of 1994-95 with all consequential benefits. It is incumbent on the part of the Union of India and the Union Public Service Commission to review the select lists for 1994-95, 1995-96 and 1996-97 in terms of the regulation prior to its amendment in the year 1997. He was number one in the select list for the years from 1995-96 to 2005. In the order in OA No. 628/2008 filed by the applicant this Tribunal had observed that no act of a court record should prejudice a party and directed the Central Government to adopt sealed cover procedure and consider the extension of the benefit of retrospective promotion to him. He is entitled to be considered for selection and appointment to the IPS in the year 2006 de hors his completion of 54 years of age as per order of the Hon'ble High Court of Punjab & Harayana.

2. Per contra the 2nd and 3rd respondents submitted that since 8 vigilance cases were pending against the applicant, integrity certificate could



not be issued in respect of the applicant till his retirement on 30.4.2006. In the 9th case he was convicted vide order dated 30.11.2010 as per Annexure R1 and was sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs. 25,000/-. As directed by this Tribunal in the order in OA No. 46 of 2006, the applicant's name was included in the proposal for the year 2006 but the Union Public Service Commission had intimated that he was not eligible for promotion to the IFS in the year 2006 as he was not available in service on 31.5.2006.

3. Respondent No. 4 in reply statement submitted that as per DOP&T OM dated 25th August, 2010 the ratio decided in the judgment of the Hon'ble High Court of Punjab & Harayana is to be implemented with effect from 1.2.2010 i.e. the date of High Court's order.

4. We have heard the learned counsel for the parties and perused the records.

5. The very fact that the applicant was proceeded against in nine criminal cases shows a reckless tendency on the part of the applicant to fall foul of the law. He was convicted in the 9th case. The fact that he was exonerated in 8 criminal cases does not stand him in good stead. The relevant point is that the integrity certificate in respect of the applicant could not be given by the State Government during the currency of the select list every time he was included in the select list. We do not find any bias or discrimination on the part of the State Government in with-holding the



integrity certificate in his case due to pending disciplinary cases and vigilance cases.

6. OA No. 628/2008 filed by the applicant was dismissed as under:-

"17. From the above it is clear that the regulation is specific that the integrity certificate shall be acted upon only when it is received during the currency of the select list, whose currency has been prescribed. In the instant case, albeit due to the prolonged criminal proceedings, in respect of which the applicant has no control, the proceedings could come to an end only after about fourteen years, whereas the validity of the panel extends for a very limited period as contained in regulation 7(4). As there is no provision analogous to sealed cover procedure, as available in other services, notwithstanding the fact that for no fault of the applicant, the criminal proceedings prolonged for a substantial period, as the integrity certificate could not be given by the State Government during the currency of select list for 1994 or immediately thereafter, the applicant is not entitled to the prayer of consideration for promotion to the cadre of IFS with retrospective effect from 01-01-1994.

18. The applicant is thus, not entitled to the reliefs claimed.

19. Before, however, parting with the case, it is to be observed that the applicant has been found fit for promotion and has been No. 1 in all the years when his case was considered and but for the withholding of integrity certificate, he would have been through in his promotion as early as 1994 itself. But he could not get his promotion as the integrity certificate had to be withheld due to prolonged court proceedings. Over the delay in finalization of the criminal proceedings, there cannot be any hand of the applicant. The apex court has held in the case of *Supdt. of Taxes v. Onkarmal Nathmal Trust*, (1976) 1 SCC 766, "*No act of a court should prejudice a party. That is the first principle of justice.*". Keeping this in view, the Central Government may like to consider extension of the same benefits for All India Services also, as in the case other services, which adopt the sealed cover procedure and afford retrospective promotion on notional basis at least."

7. The legal position as to the non-selection of the applicant for want of integrity certificate is clearly stated in the aforesaid order. The



observation of this Tribunal in paragraph 19 is only advisory and is not a direction. We do not find any merit in the contentions of the applicant. Accordingly, the Original Application is dismissed with no order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

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