

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A. No.204 OF 2007**

**Wednesday this the 18th day of April, 2007**

**CORAM :**

**HON'BLE Mrs. SATHI NAIR, VICE CHAIRMAN  
HON'BLE Dr. K.B.S.RAJAN, JUDICIAL MEMBER**

**P.G.Asok Kumar**  
Superintendent of Police, (Non-IPS Cadre)  
Presently posted as Superintendent of Police  
Crime Branch CID, Kottayam  
Kerala State : **Applicant**

**(By Advocate Mr. Alexander Thomas )**

**Versus**

1. The Selection Committee for Appointment by Promotion to IPS, Kerala Cadre represented by its Chairman, Union Public Service Commission (UPSC) Shajahan Road, New Delhi
2. Union Public Service Commission (UPSC) represented by its Secretary Shajahan Road, New Delhi
3. Union of India represented by Secretary to Government of India, Ministry of Home Affairs Grih Mantralaya, New Delhi - 110 001
4. State of Kerala represented by Chief Secretary to Government of Kerala General Administration (Special.-A) Department Government Secretariat Buildings Thiruvananthapuram - 695001 : **Respondents**

**(By Advocate Mr. Varghese P Thomas (R1-3)  
Advocate Mr.R.Premsaner, GP (R-4)**

**The application having been heard on 18.04.2007, the Tribunal on the same day delivered the following :**

**ORDER**

**HON'BLE Mrs. SATHI NAIR, VICE CHAIRMAN**

**The applicant in this OA has completed eight years of continuous service as Dy.SP in the State Police Service of Kerala**

in March, 2004 and has approached this Tribunal aggrieved by the delay on the part of the authorities to consider his case for regular promotion to the IPS cadre of Kerala State as per the IPS Promotion Regulations for the year 2006, since he has fulfilled all the eligibility conditions. According to him he is eligible to be considered and included in the Select List for the year 2006. He is due to retire from State Police Service on 31.05.2007. He has therefore sought the following directions:-

- (a) *To declare that the action of the respondents in not expeditiously convening the meeting of the Selection Committee for finalising the Select List for promotions to IPS Kerala Cadre and finalisation of such selection and appointment process, is arbitrary, unreasonable and violative of Articles 14 & 16 of the Constitution of India.*
- (b) *To issue an appropriate order or direction to the respondents, to expeditiously convene the Selection Committee meeting for select list 2006 at the earliest, preferably before 30.04.2007 and also to direct the respondents to finalise the entire selection and appointment process for preparation of select list 2006 and to consider the applicant for inclusion in the Select List 2006 for promotion to the IPS, Kerala Cadre for the 6 vacancies and to finalise all necessary action in that regard, without any delay.*
- (c) *To issue an appropriate order or directions the respondents to consider the applicant for promotion to the IPS, Kerala cadre as per select list 2006. notwithstanding his retirement from the State Police Service on 31.05.2007 and to further declare that the retirement of the applicant from the State Police Service, shall not in any manner prejudicially affect his right to be considered for promotion to the IPS, Kerala cadre as per select list 2006 and his right for such promotion..*

2. He has also sought the interim direction to the respondents to consider him for promotion to the IPS, Kerala cadre as per select list 2006, notwithstanding his retirement from the State Police Service on 31.05.2007 and to further declare that the retirement of the applicant from the State Police Service, shall not in any manner prejudicially affect his right to be considered for such promotion to the IPS cadre.

3. The State Government has filed a reply. The relevant portion in their reply is extracted below:-

" It is submitted that the proposal for convening IPS Selection Committee for the year 2006, has been sent to the Union Public Service Commission vide State Government letter No.30496/Spl.A3/2006/GAD, dated 24.03.2006 The name of the applicant finds a place in the zone of consideration for the year 2006."

4. The date mentioned in the above para of sending the proposals by the State Government is to be corrected as **24.03.2007**.

5. When the matter came up, the learned counsel for applicant submitted that the applicant is to retire on 31.05.2007 and now that the proposals for consideration for the select list of the year 2006 have already been submitted to the Union Public Service Commission and a similar case in OA 36/07, this Tribunal has categorically directed that the Select Committee for consideration for promotion to the IPS Kerala Cadre for the

year 2006 shall be held within four weeks from the date of order in that OA viz., 10.04.2007 and that process of appointment shall be completed within a further period of two weeks, the same would apply to the applicant in this OA also and that necessary direction may be given as per the interim relief prayed for so that his retirement from the Kerala State Service on 31.05.2007 shall not affect his case for promotion.

6. As submitted above, we have already considered the matter regarding the delay in convening the Select Committee meeting for consideration of promotion to the Kerala Cadre of IPS for the year 2006 and directed that the proposals sent by the State Government shall be considered by the Selection Committee within four weeks from the date of receipt of a copy of the order. The relevant part of our direction in OA 36/07 is extracted below:-

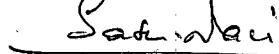
" We find that in accordance with the IPS (Appointment by Promotion) Regulations, the Selection Committee meeting for the vacancies for the year 2006 as determined should have been conducted before December, 2006. Since the matter has been unduly delayed and the proposal has now been sent on 24.03.2007, we consider that the reliefs prayed for by the applicant to issue an appropriate direction to the Selection Committee is legitimate and accordingly we order that the meeting of the Selection Committee for consideration for promotion to the Kerala Cadre of IPS for the year 2006 shall be held within four weeks from the date of receipt of a copy of this order and thereafter the process of appointment of the applicant, if found eligible and selected shall be completed by the 1st and 2nd respondents within a further period of two weeks."

7. In the light of the general direction already granted and the submission of the State Government that the applicant's name finds a place in the zone of consideration, we are of the view that the case of the applicant in this OA would come within the scope of the above directions, already given. Regarding his prayer for a declaration to the effect that his retirement from State Government Service shall not affect his consideration for promotion, it is to be stated that it is a well settled position that once the inclusion in the zone of consideration is confirmed the date of retirement would not have any prejudicial effect for consideration for promotion.

8. With these observations, this OA is disposed of. No costs.

Dated, the 18<sup>th</sup> April, 2007.

  
K.B.S.RAJAN  
JUDICIAL MEMBER

  
SATHI NAIR  
VICE CHAIRMAN

VS