

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 24 of 2013

Wednesday, this the 03rd day of April, 2013

CORAM:

**HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Haridas T.K.,
S/o. N. Krishnan Nair,
Aged 55 years,
Superintendent of Police, Vigilance Officer,
Excise Headquarters, Thiruvananthapuram,
Residing permanently at Suprabha,
TC 34/1533, Chittatinkara, Vattiyoorkavu P.O.,
Thiruvananthapuram : 695 013 Applicant.

(By Advocate Mr. M.R. Rajendran Nair (Sr.) with Mr. M.R. Hariraj)

v e r s u s

1. Union of India, represented by
The Secretary to Government of India,
Ministry of Home Affairs,
New Delhi : 110 012
2. Union Public Service Commission,
Represented by its Secretary, UPSC,
New Delhi : 110 001
3. State of Kerala represented by the
Chief Secretary, Govt. of Kerala,
Secretariat, Thiruvananthapuram : 695 001 Respondents.

(By Advocate Mr. S. Jamal, ACGSC for R-1
Mr. Thomas Mathew Nellimoottil for R-2
Mr. A. Renjith, Sr. G.P. for R-3 and
Mr. Saju Wahab)

This application having been heard on 06.03.2013, the Tribunal on
03.04.13 delivered the following:



ORDER

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

The applicant in this O.A has been included in the zone of consideration for the years 2010 and 2011 for promotion to the Indian Police Service (IPS), Kerala cadre. While forwarding the proposal for the Selection Committee Meeting to the Union Public Service Commission (UPSC), the integrity certificate in respect of the applicant was withheld on the ground that CP No. 08/2010 has been filed against him by the CBI before the Chief Judicial Magistrate Court, Ernakulam and that the State Police Chief, based on the field enquiries and information from other confidential sources had reported that the general reputation of the officer can be graded only as 'satisfactory. Aggrieved, the applicant has filed this O.A for the following reliefs:

- (i) To direct the respondent No.3 to consider the case of the applicant for issuance of integrity certificate and to issue the same;
- (ii) To direct the respondents to consider the applicant or inclusion of his name in the select list for appointment by promotion to the Indian Police Service in his turn;
- (iii) Grant such other reliefs as may be prayed for and the Court may deem fit to grant, and
- (iv) Grant the costs of this Original Application.

2. The applicant contended that no trial or disciplinary proceedings are pending against him. There is absolutely no evidence to show that the allegations against the applicant are sustainable. A fair consideration in accordance with the stipulations at Annexure A-7 will lead to grant of integrity certificate to the applicant. While the good service entries and ACRs are confirmed reflections of the merit and efficiency of the applicant, an



unsubstantiated allegation in a criminal case ought not to stand in the way of the 3rd respondent in issuing integrity certificate for appointment to the IPS. The 3rd respondent had issued integrity certificates in cases where the reputation has been categorized as 'satisfactory'. Integrity has been certified in respect of officers, like Shri C. Rajagopal, against whom charges were framed at the relevant time.

3. We have heard Mr. M.R. Rajendran Nair (Sr.) with Mr. M.R. Hariraj, learned counsel for the applicant, Mr. S. Jamal, learned ACGSC for R-1, Mr. Thomas Mathew Nellimoottil, learned counsel for R-2 and Mr. A. Renjith, learned Sr. GP for R-3 and perused the records.

4. Even though Shri T.Gopalakrishna Pillai was not impleaded as additional respondent in this O.A, his Counsel, Shri Saju Wahab, was heard who placed before us the Annexure MA-1 Government Order dated 27.08.10 and Annexure MA-2 information dated 01.01.13 obtained under RTI Act, through M.A. No. 266/2013.

5. The applicant has been arrayed as accused No. 11 in a crime relating to conspiracy by the CBI. He is not an accused in the murder case. He was directed to take the situation arising from custody death in a positive manner. His ACRs are very good / outstanding. As per the statement of the respondents, the State Police Chief had reported the general reputation of the applicant as only 'satisfactory' based on the field enquiries and information from other confidential sources. The records show that Shri Sasidharan V.N., superintendent of Police, whose general performance shown as just



'satisfactory', has been granted the integrity certificate. As far as integrity of an officer is concerned, remarks like satisfactory, good, very good etc. are beside the point. An officer is either a man of integrity or of doubtful integrity. Integrity is the quality of being honest and having strong moral principles, whereas reputation is a general opinion. Integrity cannot be graded as satisfactory, good or very good, whereas reputation can be. Therefore, the report of satisfactory general reputation cannot be a ground for denial of integrity certificate.

6. Annexure A-7 dated 26th May 1970 is reproduced as under :

"No. 17/3/70-AIS(III)
Government of India,
Ministry of Home Affairs

New Delhi-1, 26th May, 1970

To:

The Chief Secretaries of All State Governments

Sub: IAS/IPS – Integrity certificates in respect of officers
who are considered for promotion to the ...

Sir,

I am directed to refer to this Ministry's letter No. 14/23/65-AIS(III), dated the 28th July, 1966 according to which the State Government are required to furnish an integrity certificate in respect of each officer whose suitability for promotion to the IAS/IPS is considered by the Selection Committee. The integrity certificates are normally furnished at the time of the selection committee meeting. I am to request that, in future, a list of the officers in respect of whom the integrity is certified by the state Government and a list of those in respect of whom the integrity certificate is withheld may be sent to the Government of India/Union Public Service Commission in advance of the Selection Committee meeting.

2. As regards the officers against whom inquiries are pending, the integrity certificate should not ipso facto be withheld. The State Government should examine each case with reference to the nature/gravity of the charges, the evidence available on the basis of the investigation made upto that time, the known arguments of defence, if any, the views

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of the Head of Department, the general reputation of the officer etc. and then decide whether they would like to include him in the list of officers whose integrity is certified or in the list of those in respect of whom the integrity certificate is withheld."

Yours faithfully,
Sd/-

B. Narasimhan,
Under Secy. to the Govt. of India"

The above document has been produced by the applicant. The respondents have not produced any guidelines issued by the Department of Personnel and Training, Government of India, in the matter of granting integrity certificate on which they relied. According to the respondents, it is immaterial whether actual trial is commenced or not. As far as CP No. 08/2010 is concerned, there is nothing on record to show that there is due application of mind by the 3rd respondent in the matter of granting integrity certificate to the applicant, considering the nature of the charges, evidence available on the basis of the investigation made, known arguments of defence and views of the Head of department and so on. Further, no ground has been raised by the respondents for treating the applicant differently from Shri C. Rajagopal.

7. As per the Regulation 5.5 of the IPS (Appointment by Promotion) Regulations, 1955, "the name of any officer so included in the list shall be treated as provisional if the State Government withholds the integrity certificate in respect of such officer or any departmental / criminal proceedings are pending against him or anything adverse against him which renders him unsuitable for appointment to the service has come to the notice of the State Government". Explanation-1 to the above rule states that "the proceedings shall be treated as pending only if a charge-sheet has actually been issued to the officer or filed in a Court as the case may be". Even when integrity



certificate is withheld, the UPSC includes an officer in the Select List though, provisionally; that is to say consideration is not denied by the UPSC. If a charge sheet is filed in a Court, the case can be treated as pending. Pendency of a case in a Court by itself may not ipso facto deny him the right to be issued the integrity certificate unless a conscious decision is taken by the 3rd respondent to do so on considering all relevant aspects of the case as per Annexure A-7. Hence the O.A. is allowed as under.

8. The respondent No.3 is directed to consider the case of the applicant for grant of integrity certificate as per the guidelines of the Department of Personnel and Training, Government of India and to communicate his decision to the applicant by a speaking order within a period of 30 days from the date of receipt of a copy of this order. No costs.

(Dated, the 03rd April, 2013)



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

Cvr.