

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.251/2010

FRIDAY, this, the 4 th day of June, 2010

CORAM:

**HON'BLE MR.JUSTICE K. THANKAPPAN, JUDICIAL MEMBER
HON'BLE MR.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

**V.Santharam IPS,
S/o P.Vivekanandan,
Inspector General of Police,
Chief Vigilance Officer,
Kerala State Electricity Board,(K.S.E.B),
Thiruvananthapuram.**

.. Applicant

By Advocate : Sri P.K.Madhusoodhanan

vs.

- 1. State of Kerala,
Represented by the Chief Secretary,
Government of Kerala,
Thiruvananthapuram.**
 - 2. Union Public Service Commission(UPSC),
represented by its Secretary,
Shajahan Road, New Delhi.**
 - 3. Union of India,
Represented by the Secretary,
Ministry of Home Affairs,
Government of India,
New Delhi.**
- .. Respondents**

**By Advocate: Mr.N.K.Thankachan, GP(R-1)
Mr.Thomas Mathew Nellimoottil(R-2)
Mr.P.S.Biju,ACGSC(R-3)**



The Application having been heard on 02.06.2010, the Tribunal on 4.6.2010 delivered the following:-

ORDER

HON'BLE MR.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER:

The applicant, a senior I.P.S officer, while filing the Original Application was working as the Chief Vigilance Officer, Kerala State Electricity Board, Trivandrum. The grievance of the applicant is that he has been discriminated by the Govt. with that of the claim for granting year of allotment as that of given to one Paul Lessley, an I.P.S officer and also one G.Baburaj. The facts leading to the filing of the O.A. are that the applicant was directly recruited as Dy.S.P. in the Kerala Police Service as per the advice of the Kerala Public Service Commission, Trivandrum from the rank list for Dy.S.P. for the year 1976. Thereafter he has been conferred with I.P.S., Kerala Cadre and now holds the rank of Inspector General of Police and working as the Chief Vigilance Officer, K.S.E.B., Trivandrum. The applicant has joined service as Dy.S.P. on 28.1.1977. As per the seniority list published on 16.12.1986, the applicant is shown at Sl.No.104 and his immediate senior one R.Vishwanatha Pillai, who entered in service on 30.1.1977 is assigned Sl.No.103. The said Vishwanatha Pillai was promoted as Superintendent of Police (Non-IPS) in the year 1987 by the Departmental Promotion Committee. But the said Vishwanatha Pillai who has been conferred I.P.S. with effect from 1985 was later dismissed from service on finding that his very entry in the



service was on a fake certificate as Scheduled Caste. Subsequently the said Vishwanatha Pillai has been found committed fraud with the Constitution and he was dismissed from service by the Department and the matter went up to the Hon'ble Apex Court. The Hon'ble Apex Court after considering the case of the said Vishwanatha Pillai, confirmed the dismissal of Vishwanatha Pillai and the Hon'ble Apex Court held that the very inception of entry in service of Vishwanatha Pillai and granting of the I.P.S rank to Vishwanatha Pillai, were irregular and illegal. If the said Vishwanatha Pillai was not given such appointment and ranking above the applicant, the year of allotment for the applicant ought to have been considered as that of 1983. Hence the applicant filed a representation before the Govt. including Annexure A3. The further case of the applicant is that since the year of allotment for I.P.S. rank to one Paul Lessley and one G.Baburaj, has been granted by the Govt. to a previous period. If so, the stand taken by the Govt. in not granting the claim of the applicant, is irregular and illegal. Prior to the present O.A. the applicant filed O.A. No.235/2006 and W.P.(C) No.28825/08 seeking similar claim before the Govt. But that Original Application has been dismissed and the writ petition filed also has been dismissed and it is informed by the Govt. by Annexure A3 reply rejecting the claim put forward by the applicant. Therefore the applicant filed the present O.A. with the following prayers:-

“a) Set aside Annexure-A3.



- b) Issue necessary directions to the 1st respondent to reconsider Annexure -A2 on merit,untrammelled by Annexure-A3, and pass orders on it on merit, within a time limit to be fixed by this Hon'ble Tribunal.
 - c) Issue necessary directions to the respondents to grant the applicant his due year of allotment, replacing Viswanatha Pillai from the zone of consideration in view of finding his very appointment itself is ab initio void and his dismissal accordingly.
 - d) Issue necessary directions to the respondents to fix his retiral benefits taking into account his replaced date of allotment of IPS cadre eligible to him and benefits accrued to him therefrom on his retirement from service on superannuation on 31-5-2010.”
2. The O.A. has been admitted and notice has been ordered to the respondents. The respondents have entered appearance and filed reply statement denying the claim of the applicant. It is reported that as the applicant has to retire on 31.5.2010, it is only proper for this Tribunal to hear the counsel appearing for the parties including that of the Govt.
3. We have heard the counsel appearing for the applicant Mr. P.K.Madhusoodhanan , Shri N.K.Thankachan, Govt. Pleader for the State of Kerala and Mr. Varghese John for respondent No.2.
4. It is argued by the counsel appearing for the applicant that as the allotment year has been changed for Sri Paul Lessley and Shri G.Baburaj, the case of the applicant ought to have been considered by the



respondents-State. Apart from that the counsel further submits that Annexure A3 rejecting the claim of the applicant is not legal and it is arbitrary, as the Govt. have considered similar claim of Sri Lessley and Sri Baburaj, the claim of the applicant ought to have been properly considered. However the counsel further submits that the applicant has already filed another representation, a copy of which is marked as Annexure A2. If so, the respondents ought to have considered the claim of the applicant in the light of the fact that the very entry of Vishwanatha Pillai has been set aside by the Department and confirmed by the Hon'ble Supreme Court, the applicant ought to have been ranked as Sl.No.103 instead of 104 granting him year of allotment as 1983. The counsel for the respondents has stated that such a case has not been raised before this Tribunal when the applicant had filed the earlier O.A. or in the writ petition filed before the Hon'ble High Court of Kerala. If so, the present claim of the applicant is debarred as it was already considered by the Govt.

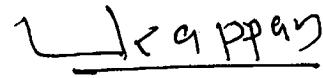
5. We have considered the contentions of the counsel for the parties. The claim of the applicant is based on two aspects, namely, similar claim has been allowed by the Govt. to Sri Lessley and Sri Baburaj and allowed their year of allotment as that of 1983. The second aspect is that as the very entry in the service by Vishwanatha Pillai and conferring him I.P.S cadre in 1991, are found irregular and illegal, as found by the Department



and confirmed by the Hon'ble Apex Court, the ranking position of the applicant ought to have been changed to that of the position of Sri R.Vishwanatha Pillai. Hence we feel that the Govt. has to reconsider the claim of the applicant by giving him an answer to Annexure A2 representation untrammelled by any observation contained in Annexure A3. Hence we direct the respondents to consider Annexure A2 representation of the applicant and pass appropriate orders thereon within 45 days from the date of receipt of a copy of this order. This O.A. stands allowed to the extent indicated. No order as to costs.



(K.GEORGE JOSEPH)
MEMBER(A)



(JUSTICE K.THANKAPPAN)
MEMBER(J)

/njj/