

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.285 of 2003

..... Wednesday.....this the 1st day of March,2006

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HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

N.S.Vijayan, Superintendent of Police(Retd)
Naduvath House, Vadayambady PO
Ernakulam District.Applicant

(By Advocate Mr.P.A.Kumaran)

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- 1 Union of India, represented by its Secretary, Ministry of Home Affairs, North Block, New Delhi.
- 2 State of Kerala represented by its Chief Secretary, Secretariat, Thiruvananthapuram.
- 3 Principal Secretary to Government of Kerala, Home Department, Secretariat, Trivandrum.
- 4 Union Public Service Commission, rep. By its Secretary, Shajahan Road, New Delhi.
- 5 The Selection Committee to the Indian Police Service constituted under Regulation 3 of the IPS (Appointment by Promotion) Regulation, 1965. represented by its Chairman, Union Public Service Commission Shajahan Road, New Delhi.
- 6 Director General of Police, Police Headquarters, Thiruvananthapuram... Respondents

(By Advocates Mr. TPM Ibrahim Khan, SCGSC for R.1,4&5

2

Mr.Ranjit A, GP (R.2,3&6)

The application having been heard on 16.2.2006, the Tribunal on 1.
3.2006 delivered the following:

ORDER

HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER

The applicant has filed the OA under Section 19 of the Administrative Tribunals Act, 1985 as the respondents have not considered him for the Select List of State Police Officers for IPS for the vacancies that arose in 2000,2001 and 2002. Such non-consideration was due to the laches and negligence on the part of the respondents in not convening the screening committee meeting at the appropriate time.

2 The brief facts of the case are that the applicant was appointed as Sub Inspector of Police in the Kerala Police Service on 5.9.73 and he retired as Deputy Superintendent of Police on 31.1.03 at the age of 55 years as per the existing rules. According to the applicant he was in all respects eligible to be considered for appointment to the Indian Police Service by virtue of the provisions contained in the IPS (Appointment by Promotion) Regulation, 1955 for the vacancies which have arisen for the years 2000,2001 and 2002. According to him there were 24 vacancies in the IPS cadre as on 1.1.03 to be filled up by non-IPS officers and as per the seniority he stood at 14th position. He has also pointed out that the Director General of Police, Kerala had sent a TP message to 22 officers in the executive wing of

3

the Police Department for the purpose of consideration of their names for appointment to the Indian Police Service Cadre for the year 2000 so as to get from them the declaration, undertaking and consent in the prescribed form. The applicant further submitted that the committee for preparing the select list of vacancies that arose in 2000 onwards was yet to meet. Since he was eligible to be considered for the year 2000, he had pointed out to the Respondents that as per Sub Section 1 of Section 5 of the IPS (Appointment by Promotion) Amendment Regulations, 1997 the Selection Committee should ordinarily meet every year and prepare a list of members of the State Police Service eligible for promotion to the vacancies available as on first of January of the year in which the meeting is held. It follows from the above Regulation that in considering the vacancies that arose from 1.1.2000 to 31.12.2000, from 1.1.01 to 31.12.01 and 1.1.02 to 31.12.2002 the meeting was invariably to be held in 2001, 2002 and 2003, but the same were not held.

3 The State of Kerala in their reply has also concurred that as per Regulation 5(1) of Indian Police Service (Appointment by Promotion) Regulation, 1955 the Selection Committee shall meet ordinarily every year and prepare a list of such members of the State Police Service Officers to be included in the Select List which shall be determined by the Central Government in consultation with the State Government and it shall not exceed the number of substantive

9

vacancies as on the first day of January in which the meeting is held for the post available for them under the rules. The number of members of the State Police Service Officers to be considered by the Selection Committee shall be three times, the number of substantive vacancies referred to above, published in their order of seniority in the State Police Service. Under the 2nd proviso to Rule 5(1) of the Regulations as amended vide Government of India Notification dated 25.7.2000, where no meeting of the Committee could be held during a year for any reason (other than that provided in the 1st 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. Thus the rule envisages not only yearly meeting of the Selection Committee, but it also provides for preparation of separate Select Lists for each year in the event of non-convening of the Selection Committee for a particular year due to any unforeseen events. They have also submitted that the Government have initiated action to convene the selection committee for the years 2001,02 and 03 for considering the vacancies which arose from 1.1.2000 to 31.12.2000, 1.1.2001 to 31.12.2001 and 1.1.2002 to 31.12.2002. The number of vacancies for each year was also determined by the Government of India in consultation with the State Government. The Government of India has fixed the number of vacancies available for promotion to IPS during the year 2001 as 4, for 2002 and 2003 as 10 and 4

2

respectively. The total vacancies for the above three years are 18 as against the claim of the applicant that there were 24 vacancies available as on 1.1.03.

4 The respondents have submitted that the reasons for delay in convening the IPS Selection Committee for the year 2001 were the following:

(i) In the State of Kerala, the Assistant Commandants of Armed Police/Armed Reserve Battalions were considered along with the Deputy Superintendents of Police in the Principal Police Service of the State for the purpose of promotion to IPS under the IPS (Appointment by Promotion) Regulations. However vide GO(MS) No.534/2000/GAD, dated 25.9.2000, Government had dispensed with this equation which entails the Armed Police/Armed Reserve Battalion Officers from being disqualified for the purpose of IPS Promotion. Aggrieved by this order a group of Armed Police/Armed Reserve Battalion officers filed an Original Petition No. 1107/2000 before this Hon'ble Tribunal challenging the said order dated 25.9.2000 of the State Government and this Tribunal vide order dated 14.8.2001 in the said OA No.1107/2000 and connected O.As set aside the order dated 25.9.2000.

(ii) A group of State Police Service Officers belonging to the General Executive Wing of the Kerala Police moved original petitions before the Hon'ble High Court of Kerala (in OP No.29327 of 2001 filed by A.T.Jose and others) challenging the order dated 14.8.2001

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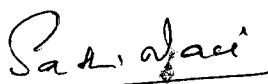
of this Tribunal in OA No.1107/2000 and connected Original Applications. The judgment in the above OP has been pronounced by the Hon'ble High Court on 4.4.2003 upholding the Government's Order dated 25.9.2000 which is not vitiated by any malafides, as nothing was pleaded and established in the Original Applications to prove any malafides. The Original Petitions were allowed and the impugned order of the Tribunal was set aside and consequently the O.As filed before the Tribunal were dismissed. Thereafter, the Respondents have initiated action to convene the Selection Committee for the years 2001,2002 and 2003 for considering the vacancies which arose from 1.1.2000 to 31.12.2000, 1.1.2001 to 31.12.2001 and 1.1.2002 to 31.12.2002. The list containing the names of officers who came in the zone of consideration has been forwarded to Union Public Service Commission on 14.8.2003. The Union Public Service Commission has already convened the Selection Committee meeting on 24.12.2003 and the Applicant who was included in the zone of consideration was also considered for the Selection of State Police Service Officers to IPS for the year 2002.

5 We have heard learned counsel Shri P.A.Kumaran for the applicant, Shri TPM Ibrahim Khan, SCGSC (R.1,4&5) and Shri Renjit A, Govt. Pleader (R2,3&6) for the respondents. We have also considered the documents produced for our perusal. In view of the satisfactory reasons submitted by the Respondents for the delay

caused in convening the Selection Committee Meeting and since the Selection Committee has later on met on 24.12.2003 and considered the Applicant for IPS selection for the year 2002, no directions as sought by the Applicant in this OA need to be issued. As the OA itself has become infructuous, the same is dismissed accordingly. There would be no order as to costs.

Dated this the 1st day of March, 2006


GOERGE PARACKEN
JUDICIAL MEMBER


SATHI NAIR
VICE CHAIRMAN

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