

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.335/97

Monday this, the 17th day of March, 1997.

CORAM:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR.K.RAMAMOORTHY, ADMINISTRATIVE MEMBER

R.Ramachandran Nair I.A.S.  
(Former Chief Secretary to the  
Government of Kerala),  
Maidan Villa,  
Hindu Mission Road,  
Thiruvananthapuram -1.

..Applicant

(By Advocate Mr.M.P.R.Nair )

vs.

1. The Government of India  
represented by the Secretary  
(Personnel), Department of  
Personnel, North Block,  
New Delhi.
2. The Government of Kerala,  
represented by the Chief Secretary to Government,  
Government Secretariat,  
Thiruvananthapuram-1.
3. Sri T.S.R.Subramanian,  
Cabinet Secretary to the  
Government of India,  
Rashtrapathi Bhavan,  
New Delhi.
4. Sri T.R.Satheesh Chandran,  
Principal Secretary to the Prime Minister,  
Prime Minister's Office,  
South Block,  
New Delhi.

..Respondents

(By Advocate Mr.T.P.M.Ibrahim Khan, SCGSC(R1) )

(By Advocate Mr.C.A.Joy, Govt. Pleader (R2)

The Application having been heard on 13.3.1997, the Tribunal  
on the 17th March, 1997 delivered the following:

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN:

The applicant belongs to the 1961 batch of the  
Indian Administrative Service allocated to the Kerala Cadre.  
He is the seniormost member of the Indian Administrative  
Service and is even senior to Shri T.S.R.Subramanian, who has  
been appointed Cabinet Secretary to the Government of India

with effect from 1.8.96. He was appointed Chief Secretary to the State of Kerala on 1.3.94 and served as such till 16.6.96. The post of Chief Secretary to the State of Kerala is in the same grade as Secretary to the Government of India. He entered on leave with effect from 17.6.96 and got the leave extended upto 30.11.1996 beyond which he did not apply for extension of leave. Coming to know that the third respondent Shri T.S.R.Subramanian has been appointed Cabinet Secretary with effect from 1.8.96, the applicant made a representation to the Secretary, Department of Personnel, Ministry of Personnel, Public Grievances and Pension requesting to promote him and to give him a posting under the Government of India in the rank of Cabinet Secretary with effect atleast from 1.11.1996. Alleging that the Government of India has not so far given him any favourable order on this representation, despite his meeting high authorities of the Government of India including the 4th respondent and the Hon'ble Prime Minister of India, the applicant has filed this application praying for a writ of mandamus or other appropriate writ, direction or order to compel the 1st respondent to post him in an appropriate post equal, if not better, in pay, rank and status to those of the third respondent and to issue a writ of mandamus directing the first respondent to dispose of the representation made by him on 15.11.96. The basis of the claim of the applicant is that he being senior to third respondent in service and therefore, he is entitled to be promoted to the post of Cabinet Secretary itself or to a post equivalent thereto.

2. We have perused the application and heard Shri M.P.R.Nair, the counsel of the applicant and Shri T.P.M.Ibrahim Khan, the Senior Central Government Standing

Counsel representing the first respondent and the learned Advocate General appearing for the second respondent, the State of Kerala.

3. Appointments to the posts under the Central Government above the rank of Joint Secretary to the Government of India are made by a process of selection and empanelment in accordance with the scheme known as the Central Staffing Scheme. The posts of Secretary to the Government of India or posts equivalent thereto and the post of Cabinet Secretary do not belong to the cadre of the Indian Administrative Service. Appointments to such posts are made considering officers from different sources, the paramount consideration being the need of the Central Government and the suitability of the officers considered in accordance with the guidelines contained in the scheme. As the post of Cabinet Secretary does not belong to the cadre, an officer belonging to the cadre of the Indian Administrative Service, has no right to claim promotion to such a post. The post of Cabinet Secretary or any Secretary to the Government of India, for that matter, is not made by promotion, but by appointment. Just because the applicant is senior to the third respondent in the Indian Administrative Service, he has no legal right to claim appointment to the post of Cabinet Secretary or to a post which is equal in rank and pay to that of the Cabinet Secretary, for the mere reason that the third respondent has been appointed Cabinet Secretary. The applicant has not alleged in the application that he has been empanelled for appointment to the post of Secretary to the Government of India or any post equivalent thereto. The fact that the applicant was holding the post of Chief Secretary to the State of Kerala which is equal in pay to that of the

Secretary to the Govt. of India, does not enable him to claim that he is entitled to be appointed as Cabinet Secretary or to a post equal in status and pay to that post. Therefore, we do not find any merit in the claim of the applicant that the Government of India is bound to appoint him as Cabinet Secretary or on a post equivalent thereto in rank, status and pay. Therefore, we are of the considered view that the applicant is not entitled to an order directing the first respondent to appoint him either as Cabinet Secretary or on a post equivalent thereto. The Central Govt. has also no legal obligation to consider his representation raising an untenable claim. The application therefore has no merit and, the same is dismissed, <sup>we</sup> leave the parties to bear their own costs.

Dated the 17th March, 1997.



K. RAMAMOORTHY  
ADMINISTRATIVE MEMBER



A.V. HARIDASAN  
VICE CHAIRMAN