

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

Commercial Complex(BDA),
II Floor, Indira Nagar,
Bangalore- 560 038.

Dated: 17-7-87

To

1. Shri.Sanjeev Malhotra,
All India Services Law Journal,
Hakikat Nagar, Mal Road,
New Delhi- 110 009.
2. Shri.R.Venkatesh Prabhu, Member,
Editorial Committee,
Administrative Tribunal Reporter,
67- Lower Palace Orchards,
Bangalore- 560 003.
3. The Editor,
Administrative Tribunal Cases,
C/o.Eastern Cook Co.,
34, Lal Bagh,
Lucknow- 226 001.
4. Delhi Law Times Office,
5335, Jawahar Nagar,
(Kolhapur Road),
Delhi- 110 007 (Rep. by Miss.Alka Kulkarni, Reporter, B'lore.)

(5) M/o All India Reporter,
Congress Nagar,
Bangalore.

~~166~~ Services Law Reporter
108, Sector 27-A
Chandigarh- 160019

Sir,

I am directed to forward herewith a copy of the under mentioned
order passed by a Bench of this Tribunal comprising of Hon'ble

Mr. K.S. Puttaswamy, Vice-Chairman/
Member (J) and Hon'ble Mr. L.H.A. Rego Member (A)

with a request for publication of the Order in the Journals.

Order dated 10-7-87 passed in A.Nos. 209 & 210/87 (T)

Yours faithfully,

(B.V.Venkata Reddy)
Deputy Registrar(J).

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(5) M/s All India Reporter,
Congress Nagar,
Nagpur.

(6) Services Law Reporter
108, Sector 21-VI,
Chandigarh- 160019

Sir,

I am directed to forward herewith a copy of the under mentioned
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Yours faithfully,

sa/-
(B.V. Venkata Reddy)
for Deputy Registrar (J).

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 10TH DAY OF JULY, 1987.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy,

.. Vice-Chairman.

And

Hon'ble Mr. L.H.A. Rego,

.. Member(A).

APPLICATIONS NUMBERS 209 AND 210 OF 1987

M.G. Kadali,
S/o G.M. Kadali,
Aged about 49 years,
Deputy Secretary to Government,
P.W.D.(Services),
Vidhana Soudha, Bangalore-1.

.. Applicant in A.No.209/1987.

Y. Krishnamurthy,
S/o A. Subba Rao,
Aged 51 years,
Secretary, Karnataka
Electricity Board,
Bangalore-1.

.. Applicant in A.No.210/1987.

(By Sri K.S. Savanur, Advocate).

v.

1. The Union of India,
represented by the Secretary
to Government, Ministry of Home Affairs,
New Delhi.
2. The State of Karnataka
represented by the Chief Secretary to Government,
Vidhana Soudha, Bangalore-1.
3. The Selection Committee
to make selection to the Cadre of
I.A.S.(Appointment by Promotion), represented
by its Chairman, Union Public Service Commission,
New Delhi.
4. The Union Public Service Commission
by its Chairman, New Delhi.
5. Sri M.N. Kathavi,
S/o not known to petitioners,
Major, presently working
as Director, Bangalore Diary,
Bangalore.
6. Sri G.G. Purohit,
S/o not known to petitioner,
Major, Working as Deputy Secretary to Govt.,
Housing & Urban Development Department,
Vidhana Soudha, Bangalore-1.

.. Respondents (Contd..)



7. Sri S.A.Patil,
S/o not known to petitioners,
Major, working as Gazetted
Assistant to the Divisional Commissioner,
Bangalore Division, Multistoried
Buildings, Vidhana Veedhi Road, Bangalore-1.
8. M.Maheshan,
S/o not known to petitioners,
Major, working as the Special
Deputy Commissioner,
Bangalore-560 001.
9. Parthasarathy,
Major, working as Deputy Secretary to Government,
Home Department, Vidhana Soudha,
Bangalore.
10. R.Suresh,
Major, Working as Deputy Commissioner,
Bangalore City Corporation,
Bangalore.
11. R.K.Bhatia,
Major, working as Special Deputy Commissioner,
Raichur,
12. B.Easwarappa,
Major, working as Secretary,
Central Relief Committee,
Multistoried Building, Bangalore-1.
13. V.Govindaraj,
Major, working as Special Deputy
Commissioner, ~~Mysore~~. Gulbarga.
14. A.R.Chandrasaha Gupta,
Major, working as Special Deputy
Commissioner, Mysore.
15. Narendra Singh,
Major, working as Special Deputy
Commissioner, Tumkur.
16. Ranganath Kelwadi,
Major, working as Special Deputy
Commissioner, Belgaum.
17. V.C.Hullur,
Major, working as Special
Deputy Commissioner, Mandya.
18. Mir Zafar Ali Khan,
Major, working as Special
Deputy Commissioner, Dharwad.

.. Respondents.

(By Sri M.S.Padmarajaiah, CGSSC for R-1,3 & 4
" S.M.Babu, Govt. Advocate for R-2)

These applications coming on for hearing this day, Vice-Chairman
made the following:

ORDER

These are transferred applications and are received from the



High Court of Karnataka under Section 29 of the Administrative Tribunals Act, 1985.

2. Sriyuths M.G.Kadali and Y.Krishnamurthy, applicants in Applications Nos.209 and 210 of 1987 respectively, who initially joined service as Tahsildars, were members of Karnataka Administrative Service (KAS) in the senior scale as on 1-1-1977. As on that date, the applicants, respondents 5 to 7 and several others were eligible for appointment by promotion to the Indian Administrative Service (IAS) under the Indian Administrative Service (Appointment by Promotion) Regulations of 1955 ('Regulations') framed by the Central Government under Rule 8 of the Indian Administrative Service (Recruitment) Rules, 1954 ('Rules') framed under the All India Services Act, 1951 (Central Act LXI of 1951) ('the Act').

3. On 28-11-1977 a selection committee constituted under Regulation No.3 of the Regulations presided over by a member of the Union Public Service Commission ('UPSC') considered the cases of the applicants, respondents 5 to 7 and 17 others and recommended for placing the applicants, respondents 5 to 7 and 8 others in the select list for the succeeding calendar year of 1978. On 20-1-1978 the UPSC approved the said select list under Regulation No.7 of the Regulations. In the select list, the placement of the officers was as follows:-

Sriyuths:

- 1) G.S.Kanekal,
- 2) B.H.Hanumantha Raju (SC),
- 3) P.Puttarangappa (SC),
- 4) Jayathirtharaj Purohit,
- 5) M.Narasimha Rao Madarkal,
- 6) N.N.Kathavi,
- 7) Govinda Rao Purohit,
- 8) S.D.Nayak,
- 9) S.Vittal Rao,
- 10) M.G.Kadali,
- 11) S.A.Patil,
- 12) Y.Krishna Murthy,
- 13) Madhu Rao.



On these placements, occurrence of vacancies and recommendations

of the State Government, Government of India on different dates appointed the first five persons to the IAS by issuing appropriate orders thereto under Regulation No.9 of the Regulations. For reasons that are not very necessary to notice at this stage, persons placed below No.5, which necessarily included the two applicants, were not appointed by the Central Government to IAS during 1978.

4. On 19-12-1978 another committee presided over by another member of the UPSC again considered the cases of the applicants, respondents 5 to 18 and 11 others for appointment to IAS under the Regulations and prepared a select list of 14 officers for the year 1979 as hereunder:

Sriyuths:-

- 1) Govindarao G.Purohit,
2. S.A.Patil, 3) N.N.Kathavi,
- 4) M.Maheshan,
- 5) B.Parthasarathy,
- 6) R.Suresh,
- 7) R.K.Bhatia,
- 8) B.Eswarappa,
- 9) V.Govindaraj,
- 10) A.R.Chandrasekhar Gupta,
- 11) Narendra Singh (SC),
- 12) Ranganath Kelavadi (SC),
- 13) V.C.Hullur,
- 14) Mir Zafar Ali Khan.

In its meeting held on 19-12-1978, the committee graded the applicants as 'good'. But, still they were not brought to the select list with due regard to the merit of other candidates and their seniority over the applicants. The select list prepared on 19-12-1978 was approved by the UPSC on 27-5-1979 and thereafter appointments were made by Government from this list for the calendar year 1979 and onwards. As the applicants did not find their place in the select list of 1979, they were not appointed to IAS during the calendar year 1979. Aggrieved by the same, the applicants approached the High Court on 26-7-1979 in Writ Petition No.10824 and 10825 of 1979 principally for a mandamus to respondents 1 to 4 to appoint them to IAS on the basis of the 1977 list. On their transfer, those writ petitions



have been registered as application Nos.209 and 210 of 1987.

5. When these proceedings were pending before the High Court, the cases of the applicants were considered for the succeeding years also and they were selected in 1980^{or so} on which basis they were appointed to IAS in due course. Applicant in Application No.210 of 1987 has retired from service on 30-9-1985 on attaining superannuation.

6. Respondents 1, 3 and 4 have filed their reply resisting the applications. Respondent No.2 has also filed its separate reply supporting respondents 1, 3 and 4. All other respondents have either remained absent or unrepresented.

7. Sri K.S.Savanur, learned Advocate has appeared for the applicant in A.No.209 of 1987. But, the applicant in A.No.210 of 1987 who was represented by Sri G.B.Raikar, Advocate before the High Court and who has been duly served with the transfer notice has remained absent and is unrepresented. But, since his case is also similar to the case of the applicant in A.No.209 of 1987, we propose to examine his case also on merits as if he is represented by Sri Savanur. Sri M.S.Padmarajah, learned Central Government Senior Standing Counsel has appeared for respondents 1, 3 and 4 and Sri S.M.Babu, learned Government Pleader has appeared for respondent-2.

8. In their applications, the applicants have challenged the validity of sub-regulations (4) and (5) of Regulation No.5 of the Regulations as violative of Articles 14 and 16 of the Constitution. But, at the hearing Sri Savanur, in our opinion, very rightly did not pursue this challenge. Even otherwise, this challenge stands rejected by the Supreme Court in R.S.DASS v. UNION OF INDIA AND OTHERS (ATC 1982 (2) SC 628). For these reasons, we reject the challenge Regulation No.5 of the applicants to sub-regulations (4) and (5) of the Regulations.

9. Sri Savanur has urged that the select list prepared by the committee on 28-11-1977, and approved by the UPSC on 20-1-1978 for the year 1978 was in operation or effective till 27-5-1979 on which day only the



UPSC approved the select list for the year 1979.

10. Sriyuths Padmarajaiah and Babu have urged that the list for 1978 was effective only till 19-12-1978 or till the end of the calendar year 1978 only and not beyond that.

11. Before ascertaining the true scope and ambit of the Act, the Rules and the Regulations, it is well to remember the observations of Bhagwati, J. (as His Lordship then was) in *K.P. VARGHESE v. ITO, ERNAKULAM* (AIR 1981 SC 1922) explaining the progressive rule of construction of statutes. Therein the learned Judge explained the same in these inimitable words:

".....The task of interpretation of a statutory enactment is not a mechanical task. It is more than a mere reading of mathematical formulae because few words possess the precision of mathematical symbols. It is an attempt to discover the intent of the legislature from the language used by it and it must always be imperfect instrument for the expression of human thought and as pointed out by Lord Denning, it would be idle to expect every statutory provision to be "drafted with divine prescience and perfect clarity". We can do no better than repeat the famous words of Judge learned Hand when he said: "..... it is true that the words used, even in their literal sense, are the primary and ordinarily the most reliable, source of interpreting the meaning of any writing; be it a statute, a contract or anything else. But, it is one of the surest indexes of a mature and developed jurisprudence not to make a fortress out of the dictionary; but to remember that statutes always have some purpose or object to accomplish, whose sympathetic and imaginative discovery is the surest guide to their meaning". We must not adopt a strictly literal interpretation of Section 52 sub-section (2) but we must construe its language having regard to the object and purpose which the legislature had in view in enacting that provision and in the context of the setting in which it occurs. We cannot ignore the context and the collocation of the provisions in which Section 52 sub-section (2) appears, because, as pointed



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out by Judge Learned Hand in most felicitous language:"..... the meaning of a sentence may be more than that of the separate words, as a melody is more than the notes, and no degree of particularity can ever obviate recourse to the setting in which all appear, and which all collectively create"....."

Bearing these and other well settled rules of construction of statutes, we must ascertain the scope and ambit of the relevant provisions.

12. On the period of currency of a list prepared by a committee and approved by the UPSC, the same had to be decided primarily with reference to the statutory provisions made for the same. We must, therefore, first notice them.

13. The Act containing four sections does not make any provision on the currency of the select list. This is also true of the Rules.

14. Regulation No.5(1) which provides for the committee to meet at intervals not exceeding one year and prepare a list reads thus:-

5. PREPARATION OF A LIST OF SUITABLE OFFICERS

- (1) Each Committee shall ordinarily meet at intervals not exceeding one year and prepare a list of such members of the State Civil Service as are held by them to be suitable for promotion to the Service. The number of members of the State Civil Service included in the list shall not be more than twice the number of substantive vacancies anticipated in the course of the period of twelve months, commencing from the date of preparation of the list, in the posts available for them under rule 9 of the Recruitment Rules, or 10 per cent of the Senior posts shown against items 1 and 2 of the cadre schedule of each State or group of States, whichever is greater.

Regulation No.5(6) which requires the committee to review and revise the lists every year reads thus:

(6) The list so prepared shall be reviewed and revised every year.

On the same subject another Regulation which has relevance is Regulation No.7 and the same reads thus:

7. SELECT LIST:- (1) The Commission shall consider the list prepared by the Committee along with the other documents received from the State Government and, unless it considers any change necessary, approve the list.

(2) If the Commission considers it necessary to make



make any changes in the list received from the State Government, the Commission shall inform the State Government of the changes proposed and after taking into account the comments, if any, of the State Government, may approve the list finally with such modification, if any, as may, in its opinion be just and proper.

(3) The list as finally approved by the Commission shall form the Select List of the members of the State Civil Service.

(4) The Select List shall ordinarily be in force until its review and revision, effected under sub-regulation (4) of regulation 5, is approved under sub-regulation (1) or, as the case may be, finally approved under sub-regulation (2):

Provided that, in the event of any new Service or Services being formed by enlarging the existing State Civil Service or otherwise being approved by the Central Government as the State Civil Service under clause (j) of sub-regulation (1) of Regulation 2, the Select List in force at the time of such approval shall continue to be in force until a new list prepared under regulation 5 in respect of the members of the new State Civil Service, is approved under sub-regulation (1) or, as the case may be, finally approved under sub-regulation (2):

Provided further that in the event of a grave lapse in the conduct or performance of duties on the part of any member of the State Civil Service included in the Select List, a special review of the Select List may be made at any time at the instance of the State government and the Commission, may if it so thinks fit, remove the name of such members of the State Civil Service from the Select List.

(5) Every person included in the select list shall have to undergo such training at the Lal Bahadur Shastri National Academy of Administration, the State training institutions and other established training institutions in the country for such period as the Central Government may consider necessary.

On a combined reading of these regulations we must now answer the question.

15. Sub-regulation (1) of Regulation 5 requires the committee to meet at intervals not exceeding one year. This requirement was complied with by the Selection Committees constituted under Regulation No.3 of the Regulations for the years 1978 and 1979.

16. Sub-regulation No.(3) of Regulation No.5 directs that the list prepared for previous year or for one calendar year shall be reviewed and revised every year. Sub-regulation No.(4) of Regulation No.7 provides that the select list shall ordinarily be in force until the previous list is reviewed and revised. WE must give effect



effect to all these regulations and read each one of them as consistent with each other. When so read it is obvious that a Select List prepared by a Committee and approved by the UPSC normally before the commencement of a calendar year for the succeeding calendar year will be current for the succeeding calendar year for which it is prepared or till the same is reviewed and revised by the Committee whichever is earlier. We are of the view that any other construction would lead to anomalous results and will not carry out the scheme of the Act, Rules and Regulations.

17. In Dass's or other cases relied on by Sri Savanur, the Court had no occasion to examine this precise question and express its views. We cannot, therefore, place any reliance on them to answer the precise question.

18. On the foregoing discussion we hold that a Select List prepared and approved by the UPSC will be valid till it is reviewed and revised or for the succeeding calendar year whichever is earlier and not till a fresh list is actually approved by the UPSC as urged for the applicants.

19. Sri Savanur has next contended that the applicant in Application No.209 of 1987 had an indefeasible right to be appointed to one or the other vacancy that arose prior to 30-4-1979 and in any event to the vacancy which occurred on account of retirement of one Sri Gunderao Deshpande, a member of IAS from 30-4-1979. In support of his contention, Sri Savanur has strongly relied on the ruling of the Supreme Court in UNION OF INDIA v. MOHANLAL CAPOOR (1973) 2 SCC 839 = 1974 SCC (L&S) 5 =AIR 1974 SC 87 (Capoor's case) and the ruling of Jagannatha Shetty,J.(as His Lordship then was) in RUPLA NAIK v. UNION OF INDIA AND OTHERS (1975 (1) Kar.L.J.p30).



20. Sriyuths Padmarajiah and Pabu refuting the contention of Sri Savanur have urged that the applicants had no such right and their claim was wholly unfounded and unjust.

21. On this claim, the applicant in Application No.209 of 1987 had asserted that before 30th April, 1979 the following IAS officers borne on the Karnataka cadre retired: from service:

<u>Date of vacancy</u>	<u>Vacancy filled on</u>	<u>Whom</u>
1. 27-9-1978	29-10-1979	Sri G.G.Purohit.
2. 26-10-1978	29-10-1979	Sri S.A.Patil.
3. 30-10-1978	29-10-1979	Sri N.N.Kathavi.
4. 8-3-1979	30-11-1979	Sri M.Maheshan.
5. 27-4-1979	22-12-1979	Sri B.Parthasarathi.

After the first five in the Select List viz., Sriyuths G.S.Kanekal, B.H.Hanumantha Raju (SC), P.Puttarangappa(SC), Jayathirtharaj Purohit and M.Narasingh Rao Madarkal were appointed, the applicant claims that he should have been appointed against any one of the above vacancies and in any event against the vacancy caused by the retirement of Sri Deshpande. This assertion made by the applicant in the written brief furnished by him at the hearing is not seriously disputed by the respondents. We, therefore, accept this statement for examining the rival contentions of the parties.

22. When the selection committee met on 26-11-1977 in its detailed note, the State Government had stated that the anticipated vacancies for the years 1978 were four and that in respect of those vacancies that occurred at any rate before 19-12-1978 the first five placed in the Select List viz., Sriyuths G.S.Kanekal, B.H.Hanumantha Raju (SC), P.Puttarangappa (SC), Jayathirtharaj Purohit and M.Narasingh Rao Madarkal were recommended for appointment by the State Government and the Union Government ^{so} /appointed them under the Regulations is not in dispute. So also the fact that no one placed below Sri Narasingh Rao Madarkal including the applicant in Application No.209 of 1987 who occupied rank No.10 were not recommended for appointment by the State Government and were not appointed



by the Union Government on or before 19-12-1973 and 27-5-1979 which are ^{the} two crucial dates is not also in dispute. In answer to a pointed question put by us, the applicant fairly admitted that no one that was senior or junior to him in the Select List except the first five had been recommended for appointment by the State Government and had been appointed by the Union of India ^{either} before 19-12-1973 or 27-5-1979. But, notwithstanding this, his case was that he had become entitled for appointment, at any rate, on 30-4-1979 and that a declaration to that effect with all consequential reliefs should be granted to him. We will examine this claim from the stand point of legality first and then its justness or otherwise.

23. Whenever a person is selected to any civil post notwithstanding the process of selection and the ranking assigned to him, such a person cannot, as of right, demand the appointing authority to appoint him to the post for which he has been selected before Government or the appointing authority decides to fill up the vacancy and make an appointment thereto. The mere selection of a person and the ranking assigned to him by themselves do not confer an absolute right on such person to be appointed to the post. The right of a person selected for appointment from the select list arises only when Government decides to make an appointment and not otherwise. But, when Government decides to make appointments then and then only, normally, it has to make appointments in conformity with the selections and the rankings assigned thereto by the selecting authority. As we comprehend, this is the general legal position in all cases of selections. Whether this general legal position has been accepted or is any way altered by the regulations is the next question that calls for our examination.

24. The right of persons selected under the Regulations for appointment are dealt in Regulations 3 and 9 of the Regulations. Those regulations read thus:



8. APPOINTMENTS TO CADRE POSTS FROM THE SELECT LIST:- (1) Appointments of members of the State Civil Service from the Select List to posts borne on the State Cadre or the Joint Cadre of a group of State as the case may be, shall be made in accordance with the provisions of rule 3 of the Cadre Rules. In making such appointments, the State Government shall follow the order in which the names of such officers appear in the Select List.

(2) Notwithstanding anything contained in sub-regulation (1), where administrative exigencies so require, a member of the State Civil Service whose name is not included in the Select List or who is not next in order in that Select List, may, subject to the aforesaid provisions of the Cadre Rules, be appointed to a cadre post, if the State Government is satisfied -

(i) that the vacancy is not likely to last for more than three months; or

(ii) that there is no suitable cadre officer available for filling the vacancy.

Provided that where any such appointment is made in a State, the State Government shall forthwith report to the Central Government together with the reasons for making the appointment.

Provided further that where administrative exigencies so require, such appointments may be continued in a cadre post beyond a period of three months with the prior concurrence of the Central Government.

9. APPOINTMENTS TO THE SERVICE FROM THE SELECT LIST:- (1) Appointment of members of the State Civil Service to the Service shall be made by the Central Government on the recommendation of the State Government in the order in which the names of members of the State Civil Service appear in the Select List for the time being in force:

Provided that the appointment of members of the State Civil Service shall be made in accordance with the agreement arrived at under clause (b) of sub-rule (3) of rule 8 of the Recruitment Rules in the order in which the names of the members of the State Civil Service occur in the relevant part of the Select List for the time being in force.

(2) It shall not ordinarily be necessary to consult the Commission before such appointments are made, unless during the period intervening between the inclusion of the name of a member of the State Civil Service in the Select List and the date of the proposed appointment there occurs any deterioration in the work of the member of the State Civil Service which in the opinion of the State Government, is such as to render him unsuitable for appointment to the Service.

Sub-regulation (1) of Regulation 8 directs that appointments of persons placed in the select list to cadre posts be made in accordance with Rule 9 of the Cadre Rules in conformity with the rankings assigned in the select list. Sub-regulation (2) of that Regulation that deals with certain special contingencies is not very material for our purpose



and a detailed analysis of the same is, therefore, unnecessary.

25. Sub-regulation (1) of Regulation No.9 also directs the Central Government to make appointments to IAS on the recommendations of the concerned State Government, however, adhering to the rankings assigned in the Select List. Sub-regulation No.(2) of the same reserves power to Central Government not to make appointments of persons who are found unsuitable after their selection.

26. The analysis of these provisions in our view, does not alter the general legal position we have earlier noticed. The terms 'shall appoint' on which great emphasis was placed by Sri Savanur relying on the observations of the Supreme Court in Capoor's and Rupla Naik's cases cannot be read in isolation and cannot be read as conferring an absolute right on the applicant to be appointed to the post merely on the basis of his selection in the 1977 list. If this then is the correct legal position, then the very broad claim made by the applicant that he should be deemed to have been appointed on and from 30-4-1979 on which day Gururao Deshpande retired from service, has no legs to stand.

27. As to why the State Government did not really make immediate recommendations on the occurrence of vacancies from time to time and why the Central Government did not make appointments as and when such vacancies occurred even assuming that they really occurred is not a matter on which this Tribunal should investigate and accept the very broad claim of the applicant. On this view, it is not necessary for us to deal with the legal mala fides attributed to the State Government in not making recommendations from the 1977 select list. But, out of deference to Sri Savanur who made elaborate submissions on the same, we propose to notice and deal with the same.



28. In I.A.No.IX, the applicant has asserted that the State Government which acted with promptness in the case of M.Narasimh Rao Madarkal, did not act with that promptness to the later vacancies and for the vacancy for which he became entitled and its action suffers from legal mala fides. In support of this contention of the applicant Sri Savanur has relied on the ruling of this Tribunal in S.M.RAHMAN v. STATE OF ASSAM AND OTHERS (ATR 1986 (2) CAT 69).

29. In I.A.No.I the applicant has not alleged any personal bias against any responsible Minister or any responsible Officer who had occasion to deal with the cases of persons placed in the select list for making recommendations to Central Government. The general and vague allegations in I.A.No.I that the State Government didnot act with promptness even assuming that there is truth in the same, does not in any way advance the case of the applicant. We are of the view that the principles enunciated in Rahman's case have hardly any application to the facts and circumstances of the cases. We see no merit in this contention of Sri Savanur and we reject the same.

30. Sri Savanur has urged that in making selections for 1978 the applicants had been illegally superseded in contravention of sub-regulation (3) of Regulation 6 of the Regulations.

31. In the 1978 select list, the applicants were graded as 'good' as in the previous year. But, still they were not selected for the reason that the superior merit and seniority of others called for their selection in preference to the applicants. On these facts, we cannot hold that there has been a supersession in contravention of the provisions relied on by Sri Savanur. We see no merit in this contention of Sri Savanur and we reject the same.

32. We have earlier noticed that atleast 4 persons who were



were seniors to the applicant from out of the 1977 list had neither been recommended for appointment by the State Government nor were they appointed by the Union Government. We have also noticed that no one who was junior to the applicant had been recommended and appointed from 1977 list. If that is so, then it would be totally unjust for this Tribunal to accept the claim of the applicant and grant him the reliefs, even if the same is otherwise well-founded. We fully recognise that the legal rights of a person cannot be defeated by the non-assertion of such legal rights by another person. But, that does not necessarily mean that the Tribunal should accept a patently unjust claim when persons who had better rights had not asserted them evidently for the reason that they had no such claims and had allowed the matters to stand.

33. Sri Savanur has also urged that there ^{was} ~~is~~ no justification for the selection committee, the State Government and the Union Government to have selected and ~~appointed~~ respondent No.18 who had earlier been shown as junior to the applicant in Application No.200 of 1987 and who was found unfit for selection in 1977.

34. On the earlier occasion in 1977, respondent No.18 though appointed earlier to the applicant in the cadre of Tahsildar and had been confirmed earlier had been erroneously shown as junior to the applicant. But, on realising that mistake, Government of Karnataka had rectified the same and had assigned him proper ranking in the KAS cadre. After all a mistake once committed cannot by itself be a ground for the applicant to contend that that mistake should be continued for all time and the benefit of that mistake be given to him.

35. The fact that respondent No.18 was found unfit on one occasion does not necessarily mean that he cannot be found fit on a later occasion. On a later occasion, the selection committee on



on an overall assessment had found that respondent-18 was fit for promotion and had recommended his case for promotion. We find no infirmity in his selection and appointment on a later occasion. Even otherwise, respondent-18 had retired from service on 30-4-1986 which fact also justifies us to decline to interfere with his selection and appointment.

36. As all the contentions urged for the applicants fail, these applications are liable to be dismissed. We, therefore, dismiss these applications. But, in the circumstances of the cases, we direct the parties to bear their own costs.



Sd —

VICE-CHAIRMAN

10/7/1987

Sd —

MEMBER(A) 10.7.87

np/-

'TRUE COPY'

face
SECTION OFFICER 16/7
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

A nos. 209 & 210/82 (1)

Advocate for the Applicant/Petitioner.

Sri G. B. Roukar

Notice issued to

R₁, R₃ to R₇

P.F. of Rs 14/- paid on

4/8/79

Aug

7/8/79

Notice issued to R

9 to 18 on 22-8-79 P.F.A.

15-000-0000

Advocate for the Respondent. 23/8

88 ①[✓] ②[✓] ③[✓] ④[✓] ⑤[✓] ⑥[✓] ⑦[✓] ⑧[✓]

9, 10, 11, 12, 13, 14, 15, 16

17, 18

78

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Orders of Court

A. Nos. 2097 & 8210/82 ft
IN THE HIGH COURT OF KARNATAKA AT BANGALORE

WRIT PETITION No. 10824 1979

Petitioner :-

M.G. Kadali

to 10825

7 am

(By Sri

G.B. Raikar

Vs.

Respondents :

Union India & ors

To

O/C R, Rg to Rg

Respondent No.

WHEREAS a Writ Petition filed by the abovenamed petitioner under Article 226 of the Constitution of India, as in the copy annexed hereunto, has been registered by this Court ;

NOTICE is hereby given to you to appear in this Court, in person or through an Advocate duly instructed or through someone authorised by law to act for in this case, at 10-30 a.m. in the forenoon, on the 17th day of August 1979 show cause why rule nisi should not be issued. If you fail so to appear on the said date or on any subsequent date to which the matter may be posted as directed by the Court without any further Notice, the petition will be dealt with heard and decided in your absence.

Issued under my hand and the seal of this Court, this

7th

day of

August 1979

29/8/79
DESPATCHED

By Order of the Court,

VI Assistant Registrar

High Court of Karnataka

Bangalore.

III Deputy Registrar

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

WRIT PETITION No. 10824 to 1979
10825

Petitioner :— M. G. Kadali Gannur

(By Sri G. B. Raikar)

Vs.

Respondents : Union of India Govt

To

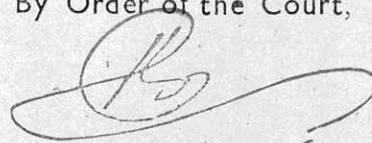
Respondent No. 2.9 to 10

WHEREAS a Writ Petition filed by the by abovenamed petitioner under Article 226 of the Constitution of India, as in the copy annexed hereunto, has been registered by this Court ;

NOTICE is hereby given to you to appear in this Court, in person or through an Advocate duly instructed or through some one authorised by law to act for in this case, at 10-30 a.m. In the forenoon, on the 23rd day of Sept 1979 show cause why rule nisi should not be Issued. If you fail so to appear on the said date or on any subsequent date to which the matter may be posted as directed by the Court without any further Notice, the petition will be dealt with heard and decided in your absence.

Issued under my hand and the seal of this Court, this 23rd day of Aug 1979

By Order of the Court,



III Deputy Registrar

V. L. Ash

23/8 11/23/8


1/7/79
DESPATCHED

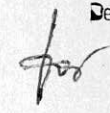
Copy with enclosure forwarded for information to:

1. The Registrar, Central Administrative Tribunal, Principal Bench, Faridkot House, Copernicus Marg, New Delhi- 110 001.
2. The Registrar, Central Administrative Tribunal, Tamil Nadu Text Book Society Building, D.P.I.Compounds, Nungambakkam, Madras- 600 006.
3. The Registrar, Central Administrative Tribunal, C.G.O.Complex, 234/4, AJC Bose Road, Nizam Palace, Calcutta- 700 020.
4. The Registrar, Central Administrative Tribunal, CGO Complex(CBD), 1st Floor, Near Kankon Bhawan, New Bombay- 400 614.
5. The Registrar, Central Administrative Tribunal, 23-A , Thorn Hill Road, Allahabad.- 211 001.
6. The Registrar, Central Administrative Tribunal, S.C.O.102/103, Sector 34-A, Chandigarh.
7. The Registrar, Central Administrative Tribunal, Rajgarh Road, Off Shilong Road, Guwahati- 781 005.
8. The Registrar, Central Administrative Tribunal, Kandamkulathil Towers, 5th & 6th Floor, Opp.Maharaja College, M.G.Rd., Ernakulam, Cochin-682001.
9. The Registrar, Central Administrative Tribunal, CARAVS Complex, 15 Civil Lines, Jabalpur(MP).
10. The Registrar, Central Administrative Tribunal, 88-A B.M.Enterprises, Shri Krishna Nagar, Patna- 1.
11. The Registrar, Central Administrative Tribunal, C/o.Rajasthan High Court, Jodhpur (Rajasthan).
12. The Registrar, Central Administrative Tribunal, New Insurance Building Complex, 6th Floor, Tilak Road, Hyderabad.
13. The Registrar, Central Administrative Tribunal, Navrangpura, Near Sardar Patel Colony, Usmanpura, Ahmedabad.
14. The Registrar, Central Administrative Tribunal, ~~Dolamundai~~, Cuttak- 753001.

Copy with enclosure also to:

1. Court Officer (Court I)
2. Court Officer (Court II)


(B.V.Venkata Reddy)
Deputy Registrar(J).

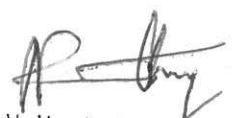


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(B.V.Venkata Reddy)
for Deputy Registrar(J).