

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 31.12.87

APPLICATION NO 846 /87 (T)

W.P.No. 4884/83

APPLICANT

Vs

RESPONDENTS

SN Murthy

Secy. to Govt. of India, M/Home Affairs
and anr

To

1. Sh SN Murthy,
Joint Registrar of Co-operative Societies,
At present working as Member,
Karnataka Appellate Tribunal,
M.S. Buildings, Bangalore-1
2. Union of India by its
Secretary to Govt of India,
Min. of Home Affairs,
New Delhi.
3. State of Karnataka by its
Chief Secretary,
Vidhana Soudha, Bangalore-1
4. Sh H.S. Jois, Advocate,
36, Vagdevi,
Shankarapuram, Shankara Park,
Bangalore-4
5. Sh MS Padmarajaiah
Senior Central Govt. Standing Counsel,
High Court Buildings, Bangalore-1
6. Sh SV Narasimhan, Govt. Advocate,
Sh SM Babu, Govt Advocate,
KAT, Bangalore.

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER ~~XXXX~~ /

~~INTERIM ORDER~~ passed by this Tribunal in the above said application
on 18-12-1987.

RECEIVED 6 Copies 31/12/87

Diary No. 1581/102/87

Date: 6.1.88

Encl: as above.

CA Please see
12/3/88

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SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
(BANGALORE) BENCH
BANGALORE

A.S. Dan
1/1/88

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 18TH DAY OF DECEMBER, 1987.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy,
.. Vice-Chairman.

And:

Hon'ble Mr. L.H.A. Rego, .. Member(A).

APPLICATION NUMBER 846 OF 1987.

S.N. Murthy,
Aged 39 years,
Joint Registrar of Co-operative
Societies at present working as Member,
Karnataka Appellate Tribunal,
M.S. Building, Bangalore-1. .. Applicant.

(By Sri H. Subramhanya Jois, Advocate).

v.

- 1) Union of India,
by its Secretary to the Government
of India, Ministry of Home Affairs,
NEW DELHI.
- 2) State of Karnataka
by its Chief Secretary,
Vidhana Soudha, Bangalore-1. .. Respondents.
(By Sri M.S. Padmarajaiah, Standing Counsel for R1
Sri S.V. Narasimhan, Govt. Advocate for R-2)

This application having come up for hearing this day, Hon'ble Vice-Chairman made the following:

ORDER

This is a transferred application and is received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act, 1985 ('the Act').

2. On the basis of the results in a competitive examination held in 1970 or so, the applicant was



appointed as an Assistant Registrar of Co-operative Societies, a Class II Gazetted Post of the Karnataka Co-operative and Marketing Services ('CMS') of the Co-operative and Marketing Department of Government of Karnataka. On the completion of probation, he has secured more than one promotion and was working in 1983 as Joint Registrar of Co-operative Societies (JRCS) and Member, Karnataka Appellate Tribunal, Bangalore.

3. When working as JRCS the applicant on 28-2-1983 filed Writ Petition No.4884 of 1983 before the High Court challenging the validity of Rule 2(g)(ii) of the Indian Administrative Service (Recruitment) Rules, 1954 ('the Rules') and Regulation No.2(J)(ii) of the Indian Administrative Service (Appointment by Promotion) Regulations 1955 ('Regulations') and for appropriate directions thereto to the respondents which on transfer on 28-9-1967 has been registered as Application No846 of 1987 (T).

4. The applicant has urged that the Rules and Regulations which make an invidious distinction between the members of the Karnataka Administrative Service (KAS) and other Civil Services were violative of Articles 14 and 16 of the Constitution.

5. In their separate but identical replies, the respondents have repudiated the challenge of the applicant.

6. Sri h.Subramhanya Jois, learned counsel for



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the applicants contends that the impugned provisions which make an invidious distinction between the members of KAS and other civil services, though they were all recruited on the basis of a common examination were violative of Articles 14 and 16 of the Constitution and, therefore, they are liable to be struck down and appropriate directions sought issued to the respondents.

7. Sriyuths M.S.Padmarajaiah, learned senior Standing Counsel for the Central Government appearing for respondent No.1 and Sri S.V.Narasimhan, learned Government Advocate appearing for respondent No.2 contend that the members of CMS and other civil services who were not totally excluded for selection to IAS from the State cadre were not comparable to members of KAS in all respects and were not equals and that the impugned provisions were not violative of Articles 14 and 16 of the Constitution.

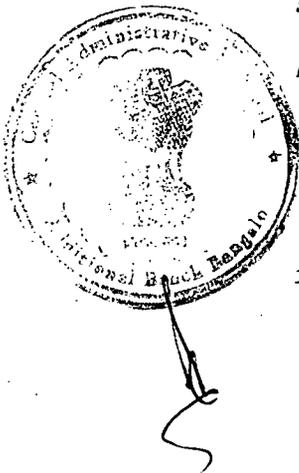
8. In its reply, respondent No.1 had asserted that members of CMS and other services subject to the criteria stipulated in Rule 8(2) of the Rules were also eligible for selection to IAS. On the terms of this Rule, the members of CMS are not totally excluded for selection to IAS. If that is so, then there is hardly any ground for the applicant to challenge the impugned provisions. But, we will assume that the applicant is right in his claim and examine his challenge on merits only.



9. In their reply, the respondents have indicated the differences and distinctions between the KAS and other civil services the State. every one of them, which cannot normally be discounted and had to be taken as correct establish that they belong to two separate and distinct classes. In other words, they are not equals. After all the fact that they are all recruited on the basis of a common competitive examination, cannot by itself be a sole and exclusive ground to hold that they are equals in all respects. On this conclusion, we cannot hold that equals have been discriminated to offend Articles 14 and 16 of the Constitution. On this short ground, the challenge of the applicant to the impugned provisions is without any merit.

10. The KAS is constituted as a separate and distinct service. The KAS is almost the equivalent to IAS in the State. The nature of composition, responsibilities and duties of KAS are entirely different to other civil services of the State. On the application of the principles enunciated by the Supreme Court on the scope and ambit of Article 14 and 16 of the Constitution, we cannot hold that the impugned provisions contravene those articles in any way. We see no merit in the challenge of the applicant to the impugned provisions and we reject the same.

11. When the challenge of the applicant to the impugned provisions is rejected, then the question



of our issuing directions for consideration of his case de hors them does not arise.

12. On the foregoing discussion, we hold that this application is liable to be dismissed. We, therefore, dismiss this application. But, in the circumstances of the case we direct the parties to bear their own costs.

Sd/-

VICE-CHAIRMAN

16/12/87

Sd/-

MEMBER (A) 15-12-87

np/

- TRUE COPY -



30/12/87

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

