

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY 1

O.A. NO. 28/92

Rajendra A. Sonawane

..Applicant

v/s

Union of India & 2 ors.

..Respondents

Coram: Hon. Shri Justice M.S. Deshpande, Vice Chairman

Hon. Shri V. Ramakrishnan, Member(A)

Appearance:

Mr. S.R. Atre
Counsel for the applicant

Mr. P M Pradhan
Counsel for the respondent no.1

ORAL JUDGMENT:
(Per: M S Deshpande, Vice Chairman)

DATED: 4.8.1994

The only question that has been pressed in this application is prayer (b) by which the applicant seeks a direction for quashing the order dated 22nd October 1991 as bad and illegal and for a direction to consider the applicant for promotion to the Indian Police Service with effect from 4.8.1985 and grant his appropriate place in the seniority list along with all the consequential reliefs including promotions and arrears of salary etc.

2. The applicant was appointed as Assistant Commissioner of Police on 2.5.1973 and was promoted as Deputy Superintendent of Police with effect from 2.6.1975 and further he was promoted as Superintendent of Police with effect from 11.3.1983. Eight of the applicant's juniors of 1975 batch were appointed ^{by} under promotion to the IPS on 4.6.1985. The applicant had received certain adverse remarks for the year 1983-84 and the ^{same} came to be expunged on 14.6.1990 in view of the representations which the applicant had made against those adverse remarks. The applicant represented to the respondent no.1, Annexure A.2 dated 2.6.1990, for refixation of his seniority in the list of IPS officers in view of expunging of the adverse remarks. By the order dated 22nd October 1991, Annexure A.3, that representation of the applicant dated 2.6.90 requesting for giving 4.6.85 as the deemed date of promotion to the IPS and placing him in the seniority list of the IPS officers above Mr. Vaidya at Sr. No.44 on the ground that the service record has undergone a change subsequently ^{but it} came to be rejected. It is this order that the applicant is challenging.

3. The submission of Shri Pradhan, the learned counsel for the respondent no.1, Union of India, is that the applicant's request could not be acceded to as there was no provision in the Indian Police Service (Appointment by promotion) Regulations for reviewing the select list once it is approved and ^{is} acted upon and there is no provision for retrospective appointment to the service. Another contention which was sought to be raised was that the cadre strength of Indian Police

Service officers is fixed and it can not be enlarged and this exactly would be consequence of reviewing the case of the applicant for a deemed date of promotion retrospectively.

4. The applicant was appointed to the IPS on 22nd September 1988. The learned counsel for the applicant, however, relied on the decision of the Tribunal in OA No.373/91 in RAMRAO NARAYANRAO WAGH Vs. UNION OF INDIA decided on 11.8.1992. In a similar situation a direction was made by the Tribunal to hold Review Selection Committee for earlier year by taking into consideration the vacancies which occurred in the year in which the applicant should have been considered. Reference was also made to a decision in OA No. 147/93 UTTAM MANUAL KALE Vs. UNION OF INDIA decided on 11.6.1993 to which one of us(Shri Deshpande, Vice Chairman) was a party and a direction was made to complete the process of selection.

5. The matter is ^{no longer} therefore resintegra and we find that no objection can be raised at this stage on the basis that the cadre strength of IPS cadre would be affected. The applicant would clearly be entitled to reconsideration of his entitlement when he should have been considered when his junior Shri Vaidya was considered in the years 1984, 1985 and 1986 and if the applicant is found suitable to give him appropriate placement as per rules. We direct appropriate review selection committee be held within four months from the date of communication of this order with a view to ascertain the applicant's entitlement as stated above. No order as to costs.

V. Ramakrishnan
(V. Ramakrishnan)
Member(A)

M.S. Deshpande
(M.S. Deshpande)
Vice Chairman