

Central Administrative Tribunal
HYDERABAD BENCH : AT HYDERABAD

O.A. No. 440/87

Date of Decision : 25-7-90.

T.A.No.

Petitioner.

Advocate for the
petitioner (s)

Versus

Respondent.

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. B. N. JAYASIMHA : VICE CHAIRMAN

THE HON'BLE MR. D. SURYA RAO : MEMBER (JUDL)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

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VC

(DSR)
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH : AT HYDERABAD :

O.A.No.440/87.

Dated : 25-07-1990.

S.R.Tiwari

...Applicant

vs.

1. Union of India represented by its Secretary to Government, Ministry of Personnel & Training, Public Grievances and Pension, Department of Personnel and Training, New Delhi - 110 001.
2. State of Andhra Pradesh, represented by the Chief Secretary to Government, General Administration Department, Secretariat, Hyderabad.
3. The Director General & Inspector General of Police, Andhra Pradesh, Hyderabad.
4. Shri K.S.N.Murthy, Superintendent of Police, Kurnool, A.P.
5. Shri Ratna Reddy, Sub-Divisional Police Officer, Kurnool, A.P.
6. Shri C.S.Naidu, Addl.Superintendent of Police, Visakhapatnam, A.P.
7. Shri Gopalakrishnam Raju, Superintendent of Police, Hyderabad. through The DGP or IGP of Hyderabad, AP.
8. Shri P.Koteswara Rao, Additional Superintendent of Police, Kurnool, A.P.
9. Shri P.Purnachander Rao, Superintendent of Police, Nellore, A.P.
10. Shri K.Murthyam Reddy, Addl.Superintendent of Police, East Godavari, A.P.

...Respondents

Counsel for the Applicant : Shri H.S.Gururaja Rao

Counsel for the Respondents : Shri E.Madan Mohan Rao, Addl. Standing Counsel for Central Government.

Shri D.Panduranga Reddy, Spl. Counsel for A.P.Govt.,.

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CORAM:

HON'BLE SHRI B.N.JAYASIMHA : VICE-CHAIRMAN

HON'BLE SHRI D.SURYA RAO : MEMBER (JUDL)

(Judgment of the division bench delivered by
the Hon'ble Vice-Chairman Shri B.N.Jayasimha).

The applicant is a direct recruit Indian Police Service officer. He was appointed in the year 1982 in the Junior time scale. On 22-9-86 he was given senior time scale and appointed as Assistant Superintendent of Police Grade-I. Grade-I posts consists of Assistant Superintendent of Police Grade-I, Additional Superintendent of Police and Superintendent of Police, all carrying the same scale of pay. On 22-12-1986 i.e., three months after being given the Grade-I, the applicant was posted as Additional Superintendent of Police, Warangal. The grievance of the applicant is that he was not posted as a Superintendent of Police from 22-12-1986 onwards and the respondents who are select list officers awaiting regular appointment to the Indian Police Service by promotion from the State Police Service were posted as Superintendents of Police. He contends that once he became eligible for promotion/appointment to the senior time scale, he is entitled to be posted the highest post available in the senior scale within the IPS cadre in preference to state Police Service. Not posting him as Superintendent of Police is contrary to the Rule 9 and 8 of Indian Police

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Service Cadre Rules, 1954. He seeks the following directions :-

- (a) to direct the respondents/department to remove/ withdraw/recall the respondents 4 to 10 and others from the cadre posts which are presently being occupied by them as the precondition of no suitable cadre officer being available is not conclusively established as required under the rules.
- (b) to direct the State Government to post the applicant and other directly recruited IPS Officers of 1982 batch who are senior time scale IPS Officers to the higher post of Superintendent of Police in that scale; and
- (c) to issue a direction to the Central Government not to consider any part of the officiation of the respondents 4 to 10 in cadre posts while fixing up their seniority as such officiation was done by illegally posting and continuing them in contravention of the relevant provisions of the IPS Rules.

2. On behalf of the State Government viz., Respondents 2 and 3, a counter has been filed stating that on completion of four years, the applicant is eligible to be posted to any one of the cadre posts in the senior time scale of IPS and that his posting as ASP Grade-I satisfies its requirement. The continuance of the respondents i.e. select list State Police Service Officers in a cadre post as Superintendent of Police is not illegal or arbitrary. They are select list officers with long years of experience

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and under Rule 9 of the IPS cadre rules 1954, the State Government can post a person who is not a cadre officer to a cadre post if no suitable cadre officer is available for filling the vacancy. Since the applicant and his batchmates were not having sufficient experience to hold district charge, they were on promotion to senior time scale, initially kept as Assistant Superintendent of Police Grade-I and subsequently as Additional Superintendent of Police. This would enable them to acquire sufficient experience. A junior time scale officer on promotion to a senior time scale, would get the same time scale of pay. Whether he is an Assistant Superintendent of Police Grade-I, Additional Superintendent of Police or Superintendent of Police. There is no illegality in posting the applicant as Additional Superintendent of Police and posting the respondents as Superintendent of Police. The interse seniority of direct recruits and State Police Officers promoted to IPS is governed by the Indian Police Service (Regulation of Seniority) Rules, 1954. The initial posting of the applicant/direct recruit IPS officer as Assistant Superintendent of Police, thereafter as Additional Superintendent of Police before posting as Superintendent of Police, is in the overall administrative exigencies and there is no infirmity in posting the applicant as Additional Superintendent of Police to enable him to acquire sufficient experience. For these reasons, the application is opposed.

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3. We have heard Shri Gururaja Rao, learned counsel for the applicant, Shri E.Madan Mohan Rao, standing counsel for the Central Government and Shri D.Panduranga Reddy for State Government.

4. In regard to the first relief viz.,, that a direction be issued to the State Government to remove or withdraw the names of the Respondents No.4 to 10 from the cadre posts which were occupied by them at the time of filing the Original Application, the learned counsel for the applicant relies upon the judgment of the Division Bench of the A.P.High Court in K.R.Nandan Vs. State of A.P. (1981). The Bench held that the post of Additional Superintendent of Police is not equivalent in status and responsibilities to the post of Superintendent of Police. The Bench had held that the direct recruits should be first considered before considering select list officers awaiting app/ in the cadre post for posting as Superintendent of Police. Shri Panduranga Reddy on the other hand points out that the applicant has subsequently posted as Superintendent of Police. In the circumstances, while noting that applicant ought to have been posted as Superintendent of Police before considering the respondents who are only select list officers, according to the regulations, we find that at this stage issue of any directions asked for does not avail. ^{Again} relief No.(2) to direct the respondent No.2 to post the applicant and other

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To

1. The Secretary to Government, Union of India,
Ministry of Personnel and Training,
Public Grievances and Pension, Dept., of Personnel
and Training, New Delhi - 110 001.
2. The Chief Secretary to Government,
State of A.P., General Administration Department,
Secretariat, Hyderabad.
3. The Director General and Inspector,--
General of Police, A.P., Hyderabad
4. One copy to Mr.H.S.Gururaja Rao, Advocate
'Maya' 3-5-703, New Narayanaguda, Hyderabad - 29.
5. One copy to Mr.E.Madanmohan Rao, Addl.CGSC.CAT, Hyd.Bench.
Spl.
6. One copy to Mr.D.Panduranga Reddy, Counsel for A.P., Govt.,
7. One spare copy.

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directly recruited IPS officers of 1982 as Superintendent of Police in that scale ~~is~~ ^{now} also not avail since the applicant has ~~already~~ ^{already} been posted as Superintendent of Police. With regard to the relief No.3 i.e. that a direction be issued to the Central Government not to consider any part of the officiation of the Respondents four to ten in the cadre posts while fixing the seniority, Shri PandurangaReddy submits that none of the respondents will be allotted a year of allotment above that of the applicant and none of the respondents will therefore become seniors to the applicant. He therefore says that the applicant cannot have any grievance as the applicant's seniority is not affected because of the posting of respondents in the cadre post of Superintendent of Police. In the circumstances, we find that no orders required on ^{reheled} this ~~relying~~ also.

5. The application is disposed-of ^{as shown above.} No orders as to costs.

B.N.Jayasimha
(B.N.JAYASIMHA)
Vice-Chairman

D.S.Rao
(D.SURYA RAO)
Member (J)

Dated :25th July, 1990.
Dictated in Open Court.

DEPUTY REGISTRAR (JUDL)

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