

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

MONDAY THE FOURTEENTH DAY OF DECEMBER
ONE THOUSAND NINE HUNDRED AND EIGHTY SEVEN.

: PRESENT :

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

THE HON'BLE MR. D.SURYA RAO : MEMBER(J)
ORIGINAL APPLICATION NOS. 769/87,
776/87 and 777/87.

O.A.No. 769/87:

Between:

1. A. Ranga Rao.
2. K. Ram Reddy.
3. K.R.W. Yesudas.

.. Applicants.

and

1. Union of India, rep. by the Secretary, Ministry of Home Affairs, New Delhi - 11.
2. Union of India rep. by the Secretary, Department of Personnel and Training, Central Secretariat, North Block, New Delhi - 110001
3. Union Public Service Commission, rep. by its Secretary, Dholpur House, New Delhi.
4. Government of A.P., rep. by its Chief Secretary to Govt., Secretariat Buildings, Hyderabad.
5. State of A.P. rep. by Principal Secretary to Govt., Revenue Department, Secretariat Buildings, A.P., Hyderabad.
6. Commissioner of Land Revenue, A.P., Hyderabad.

.. Respondents.

Application under section 19 of the Administrative Tribunals Act, 1985 praying that in the circumstances stated therein the Tribunal will be pleased to issue a direction to respondents to prepare a list of suitable for appointment by promotion to I.A.S. for 1987 by giving effect to the provisional decision of the State Govt., contained in G.O.Ms.No.1129 Revenue (W) dt. 1-12-1987 relating to the seniority of Deputy Collectors Category II with all consequential benefits, and pass such other order or orders as is deemed fit, proper, necessary and expedient in the circumstances of the case.

(b) Grant of such consequential and incidental benefits.

(16)

O.A.No. 776/87:

Between:

1. C.S. Ramachandra Murty.
2. M. Ramakrishna Sarma.

.. Applicants.

and

1. The Union of India, rep. by the Secretary, Department of Personnel and Training, Central Secretariat, New Delhi - 110001
2. The Union Public Service Commission, rep. by its Secretary, Dholpur House, New Delhi.
3. The Govt. of A.P., rep. by its Chief Secretary, Secretariat Buildings, Hyderabad.
4. The Govt. of A.P., rep. by its Principal Secretary, to Revenue Department, Secretariat, Hyderabad.

.. Respondents.

Application under section 19 of the Administrative Tribunals Act, 1985 praying that in the circumstances stated therein the Tribunal will be pleased to declare that the applicants and had completed 8 years of service in the category of Deputy Collectors and are entitled to be considered for inclusion in the select list of 1987 for appointment to the I.A.S. from State Promotion quota on the basis of G.O.M.S. 1129 Rev.(W) Department dated 2-12-1987 subject to their confirmation in the category of Deputy Collectors.

(b) to direct the Respondents 3 and 4 to place the cases of applicants before the Selection Committee which is meeting on 14th and 15th December, 1987 at Hyderabad for preparing the Select List for appointment to I.A.S. from State Promotion Quota for 1987 subject to the confirmation of applicants in the category of Deputy Collectors.

O.A.No. 777/87:

Between:

G. Venkatramayya.

.. Applicant.

and

1. Govt. of India, rep. by Secretary to Govt., of India, Ministry of Home Affairs, Department of Personnel, New Delhi - 110001
2. Union Public Service Commission, rep. by its Secretary, Dholpur House, Delhi - 6.
3. State of A.P., rep. by Chief Secretary to Govt., of A.P., Secretariat, Hyderabad.

.. Respondents.

Application under Section 19 of the Administrative Tribunals Act, 1985 praying that in the circumstances stated therein the Tribunal will be pleased to declare the panel of 1977-1978

of the Deputy Collectors belatedly drawn by mistake and the consequential proposed regularisation and the omission of the Applicant in the aforesaid panel is arbitrary, unconstitutional and malafide and issue a consequential direction that the applicant is entitled to be treated as regular Deputy Collector from the date of his temporary appointment and eligible for appointment to I.A.S. under I.A.S. (Appointment by Promotion) Regulation and he should be considered by the Select Committee.

These

This application coming on for admission and upon hearing the application and upon hearing the arguments of Mr. H. S. Gururaja Rao, Advocate for the applicants in O.A. No. 769/87 and Mr. Y. Suryanarayana, Advocate for the Applicants in O.A. 776/87 and Mr. G. Vedanta Rao, Advocate for the applicants in O.A. No. 777/87 and of Mr. Parameswar Rao for Mr. K. Jagannatha Rao, Sr. OGSC on behalf of the Respondents 1 to 3 and Respondents 1 and 2 in O.A. 776/87 and 777/87 and of Mr. M. P. Chandramouli, in O.A. No. 769/87, 776/87 and 777/87 and Mr. M. P. Chandramouli, and Spl. Counsel for State of A.P., on behalf of the Respondents 4 to 6 in O.A. No. 769/87 and of Respondents 3 and 4 in O.A. No. 776/87 and in all applications of Respondents No 3 in O.A. 777/87 (987)

The Tribunal ~~delivered~~ made the following Order:-

(18)

S. Venk
Sd/- C. Venkata Rao,
Deputy Registrar.

//True copy//

of. Section Officer (S)

To

1. The Secretary, Union of India, Ministry of Home Affairs, New Delhi - 11.
2. The Secretary, Union of India, Dept., of Personnel & Training, Central Secretariat, North Block, New Delhi - 1.
3. The Secretary, Union Public Service Commission, Dholpur House, New Delhi.
4. The Principal Secretary, Govt. of A.P., Revenue Department, Secretariat Buildings, A.P., Hyderabad.
5. The Chief Secretary, Govt., of A.P., Secretariat Buildings, Hyd.,
6. The Commissioner of Land Revenue, A.P., Hyderabad.
7. One copy to Mr. H.S. Gururaja Rao, Advocate.
8. One copy to Mr. Y. Suryanarayana, Advocate.
9. One copy to Mr. G. Vedanta Rao, Advocate.
10. One copy to Mr. K. Jagannadha Rao, Sr. CGSC.
11. One copy to Mr. M. P. Chandra Mouli, Spl. Counsel for A.P., Govt.
12. Two spare copies.

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ORIGINAL APPLICATIONS NOS. 769/87, 776/87 and 777/87.

(ORDERS OF THE TRIBUNAL).

...

The applicants in these applications are at present working as Deputy Collectors (Special Grade) in Andhra Pradesh Civil Service, Executive Branch. By G.O.Ms.No. 1129/Revenue (W) dated 2-12-1987, the Government of Andhra Pradesh have approved a panel of Deputy Collectors for the years 1977-78 after receiving the recommendations of the Andhra Pradesh Public Service Commission. Consequently, provisional dates of regularisation have been notified in the said Order. The names of the applications in O.A.No. 769/87 and 776/87 find a place in this Order whereas the applicant in O.A.No.777/87 is not one of those regularised. The applicants in O.A.No.776/87 and O.A.769/87 state that on their regularisation, they are entitled to be treated as confirmed Deputy Collectors with effect from the dates notified against their respective names and also entitled to all consequential benefits. The applicants claim that they are entitled to have their names included in the select List of Indian Administrative Service for the

year 1987. They state that a Selection Committee under Regulation 3 of the I.A.S. (Appointment by Promotion) Regulations, 1955 is due to meet in the second week of December, 1987 for preparing the list of suitable officers under the said Regulation. According to the applicants, there are twelve vacancies to be filled from the State Promotion Quota and the number of officers who can be considered is seventy-two. The applicants also contend that an attempt has been made to ignore the claims of the applicants even though they come within the zone for consideration and they, therefore, seek that a direction be issued to the State Government to include their names in the list of Officers to be considered by the Selection Committee at its forthcoming meeting.

2. In O.A.No.777/87, the applicant is one Mr. G. Venkataiah, who was directly recruited to the post of Probationary Deputy Tahsildar in 1964. He was promoted as Dy. Collector in an ad hoc panel drawn on 28-12-1978 on the basis

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of
/the recommendations of the D.P.C.. He was also
promoted later as a Special Grade Deputy
Collector by a G.O. dated 10-7-1984. The applicant
is holding that post continuously as on today. He
is questioning G.O.Ms.No.1129 dated 2-12-1987 wherein
objections in regard to regularisation of the services
of the Deputy Collectors included in the panel propo-
sing retrospective regularisation from 31-8-1978,
were called for. He also stated that he is a
Scheduled Caste and that he is entitled to one of the
reserved posts. By drawing a panel belatedly after
ten years and excluding the applicant, though he is
entitled to a reserved post, the orders issued by the
State Government are ex-facie arbitrary and illegal.
He, therefore, seeks this Tribunal to declare that
the panel of 1977-1978 of the Deputy Collectors
belatedly drawn in G.O.Ms.No.1129 is arbitrary, uncons-
titutional and mala fide. He also seeks a declaration
that the applicant is entitled to be treated as a
regular Deputy Tahsildar from the date of his temporary

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appointment. He further seeks a direction to declare him eligible for appointment to I.A.S. under the I.A.S. (Appointment by Promotion) Regulations and the Select Committee to be directed to consider his name.

3. We have heard the arguments of the Counsel for the applicants in O.A.Nos. 769/87 and 776/87 viz. Shri H.S.Gururaj Rao and Shri Y.Suryanarayana; of Shri G.Vedantharao, Counsel for the applicant in O.A.NO.777 of 1987, of Shri M.P.Chandra Mouli, Standing Counsel for the State Government and of Shri G.Parameswara Rao, Advocate representing Shri K.Jagannadha Rao, Standing Counsel for the Central Government as well as the Union Public Service Commission.

4. The relevant Regulations 5(1) and 5(2) of the I.A.S. (Appointment by Promotion) Regulations, 1955 read as follows:-

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"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.

(2) The Committee shall consider for inclusion in the said list, the cases of members of the State Civil Services in the order of seniority in that service of a number which is equal to five times the number referred in sub-regulation (1):

Provided that such restriction shall not apply in respect of a State where the total number of eligible officers is less than five times the maximum permissible size of the Select List and in such a case the Committee shall consider all the eligible officers:

Provided further that in computing the numbers for inclusion in the field of consideration, the number of officers referred to in sub-regulation (3) shall be excluded:

Provided also that the Committee shall not consider the case of a member of the State Civil Service unless on the first day of January of the year in which it meets he is substantive in the State Civil Service and has completed not less than eight years of continuous service (whether officiating or substantive) in the post of Deputy Collector or in any other post or posts declared equivalent thereto by the State Government."

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5. The learned Counsel for the applicants, viz., Shri Y.Suryanarayana and Shri H.S.Gururaja Rao argued that consequent to the issue of G.O.Ms.No.1129 dated 2nd December, 1987, all the persons included in the panel of Deputy Collectors in the said G.O., fulfil all the requirements laid down in regulation 5(1) except for one requirement viz., holding substantive posts. It is contended that such a declaration is a mere formality and has to be done shortly. In any event such a declaration cannot be from a date beyond 1-1-87. They have, therefore, become eligible for being considered by the Selection Committee. Non-consideration of their names will prejudicially affect their interests, inasmuch as under Regulation 5(4) of the Regulations, the Selection Committee is required to classify the eligible officers as 'outstanding', 'good', 'very good' and 'unfit' as the case may be on a verall relative assessment of the service record of all the eligible officers. It is further contended that any selection made without considering the names of all candidates eligible as on 1-1-1987 would render the entire selection process

illegal. They also contend that administrative delay in completing the formality of regularisation of their services and declaring them as holding substantive posts should not be allowed to go against their interests.

6. Shri Chandramouli, Standing Counsel for the State Government argued that no list has yet been prepared for being placed before the Selection Committee. The applications are, therefore, premature and they should not be entertained at this stage. He argued that under G.O.Ms. No.1129 dated 2-12-1987, the last date for receiving objections is prescribed as 11-12-1987 and at this stage it cannot be said that the names of the applicants in O.A. Nos.769/87 and 776/87 will not be placed before the Selection Committee. The applicants will have a grievance and a cause of action only when a declaration in regard to their substantive appointment is made and if, thereafter, they are not considered by the selection committee or their names are not placed before the Selection Committee. The Selection Committee can review and consider the

consider other names of the applicants if and when the applicants become eligible. As of now, the applicants cannot be said to have fulfilled the requirements as laid down in Regulation 5. He also contends that they do not fulfil the requirement of 8 years of continuous service as on 1-1-1987. It would, therefore, be not appropriate on the part of the Selection Committee to consider their names as consideration of any ineligible persons would also render the selection so made invalid.

7. Shri G. Parameswara Rao representing the Central Government as well as the Union Public Service Commission states that the responsibility of preparation of a proper list of candidates and placing the same before the Selection Committee rests with the State Government. In regard to the contention raised on behalf of the applicants that pending final orders on the G.O. Ms. No. 1129 dated 2-12-1987, the meeting of the Selection Committee may be postponed, Shri G. Parameswara Rao stated that the Committee meets regularly once a year and its post-

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ponent would cause considerable dislocation in regard to preparation of the select list for the State. He, therefore, opposed any stay being granted in regard to the meeting of the Selection Committee scheduled during the coming week.

8. At the stage of arguments, Shri M.Panduranga Rao, Counsel sought to intervene on the ground that he represents some direct recruit Deputy Collectors who have sought to impugn the G.O.Ms.No.1129 dated 2-12-1987. He stated that a revision petition has been filed before the Andhra Pradesh Administrative Tribunal questioning the validity of the G.O.Ms.No.1129 and the same is admitted by that Tribunal. He has also sought stay of the operation of the G.O.Ms.No.1129 dated 2-12-1987 and the matter is adjourned by fourteen days. He contends that inasmuch as the direct recruit Deputy Collectors had challenged the validity of the said G.O.on the ground that the State Government had

wrongly ante-dated the date of regularisation of the year 1977-78 even though there were no vacancies of State Cadre Strength as on those dates and though the applicants and others given the benefit of the G.O. were actually acting as Deputy Collectors only from subsequent years to the dates mentioned in the said G.O., it cannot be presumed that the G.O. is final.

Any direction to the Selection Committee permitting the applicants' names in these applications to be considered based on the impugned G.O. would, therefore, be not in order as it is provisional and subject to orders that would have been passed on the representations received thereon.

9. Learned Counsel for the applicant in O.A. No. 777/67
Shri Vedantha Rao in the course of his argument, while reiterating the contentions raised by his client in his application further submitted that he is separately questioning the G.O. Ms. No. 1129 before the Andhra Pradesh Administrative Tribunal and he is coming before us only

on the ground that if this Tribunal directs considera-
tion of the Deputy Collectors included in G.O.Ms.No.1129
by the Selection Committee, then his client's name should
be considered by the Selection Committee. In the event
of this Tribunal not directing the consideration of
these officers, he has no relief to ask.

10. Shri Y.Suryanarayana, counsel for the applicants
in T.A.No. ^{776/87} ████████ contends that the applicants should be
deemed to have put in eight years of continuous service
in view of the relaxation of Rule 33(a) of the A.P.State
Subordinate Service Rules. In reply, it is further con-
tended by Shri Y.Suryanarayana and Shri H.S.Gururaj Rao
that G.O.Ms.no.1129 dated 2-12-1987 has not been stayed
and that merely on the basis of this G.O., their clients
are entitled to be deemed to have been declared substan-
tive from the dates mentioned against their names and
hence, have a right to be considered by the Selection
Committee.

11. We have considered the rival submissions made by the respective Counsels. Insofar as the questions relating to the validity of the G.O.Ms.No.1129 dated 2-12-1987, the right of the applicants for confirmation, inclusion of other applicants like the applicant in O.A.No.777/87, the rights of the directly recruited Deputy Collectors (represented by Mr.Pandu-ranga Rao, Advocate) and the legality of regularisation of the Deputy Collectors retrospectively by the State Government in the said G.O.etc. are all matters which fall within the purview of the Andhra Pradesh Administrative Tribunal. This Tribunal has no jurisdiction to adjudicate on all those matters. What this Tribunal is concerned is whether a direction should be given for inclusion of the name of any Deputy Collector, who ex-facie fulfils the requirements laid down in Regulation 5(1) of the Indian Administrative Service (Appointment by Regulation) Regulations. We cannot take into account the effect of any orders that may be issued in future which would render any Deputy Collector eligible on 1-1-1987,

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and we have to go on the basis of the orders as they exist as on today. Shri Vedantha Rao contends that the applicants do not have continuous service inasmuch as G.O.Ms.No.1129 gave a retrospective date of their regularisation, whereas they have actually been officiating from a latter date in which case they would not have the required eight years of continuous service prescribed. Shri Chandramouli, Standing Counsel for the State Government states that G.O.Ms.No.1129 is provisional and till the representations received thereon are considered and disposed of, it cannot be held to have become final. In the result, we are unable to accept the argument advanced by Sushri Suryanarayana and Gururaja Rao that merely on the basis of the G.O., it should be deemed that their clients have become substantive Deputy Collectors and that we should direct the State Government to place their names before the Select Committee for consideration subject to their orders of confirmation being issued subsequently. At this stage, we cannot postulate with definiteness that the applicants in O.A.Nos.776/87 and 769/87 will be

confirmed as Deputy Collectors with effect from the dates given against their names in G.O.Ms.No.1129 dated 2-12-1987. Admittedly, any orders to be issued on the G.O. will be subject to any orders that would be passed by the Government on the representations received and the orders of the Andhra Pradesh Administrative Tribunal after considering the rival contentions. We agree with the contention of the State Government that the applications at this stage are premature. In the circumstances, we do not find that the applicants have made out any case for giving the direction that their names should be considered by the Select Committee at its forthcoming meeting. We are also not satisfied that the process of selection should be stayed till all the rival contentions are settled by the State Government / A.P.Administrative Tribunal. It is not as though the applicants in O.A. Nos.776/87 and 769/87 will not have any remedy in the event of their getting confirmations from the dates mentioned in G.O.Ms.No.1129 on a future date. In that

event, it is open for them to approach this Tribunal for issue of a direction for consideration of their names by Selection Committee either for reviewing the orders issued earlier or for their consideration as is necessary.

12. In the result, we see no reason to admit these applications at this stage. All these applications, viz., O.A.No.776/87, O.A.No.777/87 and O.A.709/87 are dismissed as premature.

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

D.Surya Rao
(D.SURYA RAO)
Member(Judg.)

14th DECEMBER, 1987.

RSR*

S. Venkateswaran
D.R.