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ORIGINAL APPLICATION NO. 3 of 1987

(JUDGMENT OF THE BENCH DELIVERED BY HON'BLE SRI D. SURYA RAO  
Member (J).

The applicant herein who is a Member of the A.P. State Police Service has filed this application for a direction to the Respondents to consider his claim for inclusion of his name in the select list of suitable officers for the years 1984, 1985 and 1986 for promotion to the Indian Police Service with all consequential benefits. The applicant states that he was directly recruited to the A.P. State Police Service in the year 1969 and joined the post of the Deputy Superintendent of Police, Grade II on 1.3.1970. He was confirmed in the post of the Deputy Superintendent of Police with effect from 20.6.1972. He was promoted as Commandant, Home Guards, by Memo dated 7.4.1980. Subsequent thereto he has been promoted as Additional Superintendent of Police and has worked in that capacity at various stations. The applicant states that he was, under Regulation 5 of the I.P.S. (Appointment by Promotion) Regulations, 1955, <sup>entitled</sup> to have his name considered for inclusion in the list of suitable officers for appointment to the Indian Police Service in the year 1984. Even though he was eligible, his case was not considered for inclusion in the select list of 1984. He states that his juniors

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Sarvasri G.Alfred, Mohammed Mazharuddin, R.Sitaram Rao, K.S.N.Moorthy and D.G.K.Raju were included in the select list of 1984. The applicant made a representation to the Chief Secretary, Government of Andhra Pradesh dated 24.4.1985. This was followed by another representation dated 27.11.1985. No reply was given to these representations. When the Selection Committee met in December 1985 for preparing a select list for 1985, the case of the applicant was ignored. The applicant states that his meritorious record of service was not considered. Once again the Selection Committee met on 3rd December 1986 for preparation of the select list for 1986. A select list was drawn up but the applicant states that his juniors Sarvasri K.Muthyam Reddy, K.S.N.Moorthy and D.G.K.Raju were included therein apart from others. The applicant states that his claims were completely ignored by the said Selection Committee. The applicant states that it appears that his non-inclusion in the select lists of 1984, 1985 and 1986 is due to certain adverse remarks passed by Shri K.G.Eradi, the then Director General of Police. These remarks pertain to the period ending by 31.3.1984 and in respect of the period when the applicant was functioning as Additional Superintendent of Police at Adilabad. The said remarks were never communicated to the applicant. The applicant contends that placing reliance upon the uncommunicated adverse remarks and his consequent non-inclusion in the select lists of 1984, 1985 and 1986 is utterly in violation

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of the principles of natural justice and the fundamental rights guaranteed to him under Articles 14 and 16 of the Constitution. It is further contended that when the Confidential Reports of the applicant are compared with the Confidential Reports of his juniors who have been included in the select lists of 1984, 1985 and 1986, it would demonstrate that no reasonable person would have decided to ignore the claim of the applicant for inclusion of his name in the select list. He claims that he should have been categorised as "very good." Hence he filed this applicant for inclusion of his name in the select lists of 1984, 1985 and 1986 of the Indian Police Service.

2. Two separate counters have been filed i.e. one by the Union Public Service Commission (Respondent No.2) and another by the State Government (Respondents 3 to 5). In the counter filed by R.2, it is contended that the Selection Committee had drawn up the select lists strictly in accordance with the procedure laid down in the I.P.S. (Appointment by Promotion) Regulations, 1955. The Regulation has been upheld by the Supreme Court in R.S.Dass vs. Union of India (1986(2) SCALE - 254 ). The Selection Committee as a whole has considered the service records and grades of the Officer. When so many officers both within the State and outside and as well as the Chairman or a Member of the Union Public Service Commission are associated in the selection process, any unanimous decision of the Committee on the assessment of the service records and consequent grading must prevail both in law and fact as unbiased, correct, impartial and

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proper over the self-assessment of the officers concerned. It is further stated in the counter that the applicant was considered for all the three years and he did not secure the required grade. On behalf of Respondents 3 to 5, a counter is filed reiterating the legal position as contained in the counter-affidavit filed on behalf of Respondent No.2. In so far as the contention of the applicant that his non-selection was due to the uncommunicated adverse remarks recorded by Shri K. G. Eradi, the then Director General of Police, the counter specifically denies this contention. It is stated for the year ending by 31.3.1984, there are no adverse remarks made by Shri K.G.Eradi as alleged by the applicant as such the question of communicating the adverse remarks did not arise.

3. We have heard the learned counsel for the applicant, Shri G.ParmeshwarRao, counsel representing the Standing Counsel for Central Government and Shri M. P. Chandra Mouli, Special Counsel for the State Government. Shri Chandra Mouli also placed the relevant records before us.

4. Four main contentions have raised by the learned counsel for the applicant: The first is that in the annual confidential report for the year 1984 the then Director General, Sri Erady passed certain adverse remarks which were not communicated to him and this resulted in his not being selected to the I.P.S. for the years 1984, 1985 and 1986. This alligation is denied in the counter. The Confidential

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Report for the year 1984 which was produced before us also does not disclose that any such adverse remark was passed by Sri Erady. This contention is devoid of any substance and is accordingly rejected.

5. The next contention is that on the basis of the entries in his Confidential Reports he ought to have been categorised as very good and that the categorisation by the committee is arbitrary. We have perused the relevant confidential reports of the applicant and see no warrant or ground for the contention that the classification is arbitrary and that the applicant should have been classified as very good.

6. The next contention is that in the year 1984 one S.Narayana Murthy should not have been included in the select list as his record is inferior to that of the applicant's. Apart from the question as to the tenability of the claim it is to be noted that the applicant <sup>now</sup> ~~is~~ ~~name~~ ~~was~~ represented against the selection of Sri Narayana Murthy or any other junior in the years 1984 and 1985. All that he sought in his representation dt.27-11-1985 was a prayer that since he had already lost one year, his case may be considered by placing his representations before the next Select Committee Meeting which was due to meet in due course. Not having agitated his non-selection or the alleged illegal inclusion of Sri Narayana Murthy in his representation he cannot seek to agitate these matters afresh in this representation application.

7. The last contention is that one Sri K.Muthyam Reddy

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ought not to have been included in the select list as he had been placed under suspension for fraud charges. The applicant himself however admits that the suspension was revoked and the charges dropped. It is therefore not open to him to assail the selection of Sri Muthyam Reddy.

8. For the reasons given by us in the preceeding paragraphs we find no merit in any of the contentions raised on behalf of the applicant. The application is accordingly dismissed but without costs.

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

*D. Surya Rao*  
(D. SURYA RAO)  
Member (J) (I)

Dt. 2<sup>nd</sup> November, 1989. *[Signature]*  
DEPUTY REGISTRAR (J) 10/11/89

AVL.

To

1. The Secretary to Government (union of India), Department of Personnel and Training, Ministry of Personnel and Training, New Delhi.
2. The Secretary, Union public Service Commission, New Delhi.
3. The Chief Secretary (State of Andhra Pradesh), General Administration, Department, Secretariat, Hyderabad.
4. The Home Secretary (State of Andhra Pradesh), Govt. of Andhra Pradesh, Secretariat, Hyderabad.
5. Director General and Inspector General of Police, Govt. of A.P., Hyderabad.
6. One copy to Mr. H.S. Gururaja Rao, Advocate, 'Maya', 3-5-703, New Narayana Guda, Hyderabad-500029.
7. One copy to Mr. M.P. Chandramouli, Spl. Counsel for the State of A.P., CAT, Hyderabad.
8. One copy to Mr. P.R.K. Raju, Sr. CGSC, CAT, Hyderabad.
9. One spare copy.

*[Handwritten signature]*  
21/11/89