

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

FRIDAY THE TWENTY EIGHTH DAY OF APRIL
ONE THOUSAND NINE HUNDRED AND EIGHTY NINE

: PRESENT :

THE HON'BLE MR. BN. JAYA SIMHA : VICE-CHAIRMAN
AND
THE HON'BLE MR. D. SURYA RAO : MEMBER (JUDL.)

ORIGINAL APPLICATION NO. 330 OF 1989.

BETWEEN:-

syed Naimathullah, ✓

..Applicants ✓

AND

- 1) The Government of India
represented by its Secretary,
Ministry of Home Affairs,
Central Secretariat, New Delhi ✓
- 2) The State Government of Andhra Pradesh.
represented by its Principal Secretary,
Revenue Department,
Secretariat Building,
Hyderabad. ✓
- 3) The Commissioner of Land Revenue, ... Respondents
Nampally Road, Hyderabad ✓

MDP
JTB

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ORIGINAL APPLICATION NO. 330 OF 1989.

The applicant is a retired Tahsildar and he has filed this application seeking a direction for promoting him to the I.A.S. after giving him paper promotion and regularising his service taking his seniority position as per the final gradation list of Tahsildars.

2. The brief facts of the case are, the applicant was originally appointed as a Tahsildar in the Revenue Department of the then Hyderabad State on 16-10-1948. He passed the Departmental Test as per the Board of Revenue Certificate No.33 dated 24th June, 1955, which was the ~~xx~~ pre-requisite for confirmation in the cadre of Tahsildars and for promotion to the Senior cadre of Deputy Collectors. He was confirmed as Tahsildar by an order dated 18-8-1955. He was allotted to the State of Andhra Pradesh on 1st November, 1956 as a Gazetted Tahsildar. He was also promoted to the State Senior Cadre as Dy. Collector by an order dated 21-1-1960.

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As deputy Collector, he served in various Divisions and also as Special Deputy Collector, Land & Acquisition, Special Deputy Collector, Localisation etc. A charge-
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memo. was issued to him on 24-4-1967 and he was reverted to the post of Tahsildar by an order dated 3-1-1966. By an order dated 28-5-1966, the petitioner was again posted as Deputy Collector, consequent to orders of the Hon'ble High Court in W.P.275/66 and W.P.M.P.1818/66 filed by the petitioner, staying the reversion of the applicant. He was again reverted to the post of Tahsildar. Subsequently, by an order dated 7-11-1966, he was again posted as Deputy Collector, consequent to the orders of the High Court quashing the G.O.Ms.no.2 of 1966. The petitioner was reverted for the third ~~time~~ time by an order dated 2-6-1970. Disciplinary action was also initiated against him by framing charges. The applicant was dismissed from service, after holding a departmental enquiry, ^{by order G.O.Ms. No 1091, dated 28 Sept 1972.} on 28-9-1972. He filed O.S.No.761/1976 on the file of the V Additional Judge, City Civil Court, Hyderabad which was subsequently transferred to the Andhra Pradesh Administrative Tribunal and renumbered as Transferred Suit No.7/80. The State Administrative Tribunal

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quashed G.O.Ms.No.1090 dated 28-9-1972 and also directed the respondents to reinstate the petitioner with all consequential benefits. The petitioner contends that as per the S.R.C. Act, the Central Government failed to check the ~~xxxx~~ abuse of power by the State Government in making false, frivolous and endless allegations to assassinate the service career of the Telangana Employee. The Central Government did not take any action to review the promotions as per final common gradation list of Tahsildars in Andhra Pradesh, wherein the petitioner was at Sl.No.69 in the Gazette Notification no.284 dated 12/December, 1970. The applicant, therefore, seeks the following relief in ~~this~~ application.

"d) But for the unjustified reversions and unlawful dismissal, the applicant would have continued in service as a Deputy Collector and consequently would have been promoted to the I.A.S., earlier than one K.Hanumantha Rao, who was at serial no.108, whereas the petitioner was at Sl.No.116 in the common gradation list of the Tahsildars as per notification dt.284 dated 12th December, 1970. The applicant should, therefore, be declared to have been promoted to I.A.S. with consequential benefits by giving him paper promotion as he has already retired from service on 30th June, 1984."

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3. The applicant filed a petition R.P.2495 of 1989 before the Andhra Pradesh Administrative Tribunal praying for issue of 'sua sponte' direction or order in the nature of writ or Mandamus for the regularisation of the petitioner's service in the cadre of Deputy ~~Ex~~ Collector, Selection Grade Collector amplifying the consequential benefits for his promotion to senior time scale promotion to the I.A.S. cadre from 1966-67 'nunc pro tunc' and fixation of pay in the said post. The R.P. was disposed of by the A.P.A.P. by an order dated 1-3-1969 observing that the petition suffers from two basic defects; (a) on the first point, viz., Non-joinder of necessary parties, it observed, "If his prayer is conceded for regularisation from 1966-67, this would involve several ~~several~~ other persons who are regularised subsequently and their interests would no doubt be affected adversely. Unless the affected parties are impleaded, the R.P. would not be complete. Since he has not impleaded the necessary parties, the present RP cannot be considered and prayer conceded without disturbing the pattern of relationships which was settled over years." The Tribunal also observed in regard to the second prayer, i.e. promotion to the

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I.A.S. Cadre, that the State Tribunal has no jurisdiction and the forum for this purpose is the Central Administrative Tribunal.

4. We have heard the applicant-in-person and Shri G. Parameswara Rao, learned Advocate representing Shri P. Ramakrishna Raju, Sr. CGSC. Applicant's right for consideration for promotion to the IAS cadre can arise only when his services are regularised in the cadre of Deputy Collectors and unless that is done, the applicant has no case for selection under the IAS (Appointment by Promotion) Regulations. The applicant states that the State Tribunal did not entertain his petition for regularisation of his services and, therefore, this Tribunal should consider his case for determining the question of regularisation as well as his right for consideration for promotion to the IAS. We are unable to accept this contention of the applicant. If the applicant is aggrieved by the order of the Andhra Pradesh Administrative Tribunal rejecting his request for regularisation, if so advised, he may move a review application for review of the order or prefer an appeal against the said order in the appropriate court. This Tribunal cannot sit in judgment over

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the decision of the Andhra Pradesh Administrative Tribunal. In the result, the application is not maintainable and it is dismissed accordingly. It is, however, open to the applicant to approach this Tribunal in regard to his prayer for consideration for selection to the I.A.S., after he obtains an order in regard to his regularisation in the cadre of Deputy Collectors, from the appropriate Tribunal / Court.

(dictated in open court).

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

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

DATED 28th APRIL, 1989.

J. Venkayya
DEPUTY REGISTRAR(J).
8/5/89

RSR°

To.

- 1) Secretary (govt. of India),
Ministry of Home Affairs, Central Secretariat, New Delhi.
- 2) Principal Secretary (govt. of Andhra Pradesh),
Revenue Department, Secretariat Building, Hyderabad.
- 3) The Commissioner of Land Revenue,
Nampally Road, Hyderabad.
- 4) One copy to Mr. Syed Naimatullah, (Party in Person)
H.M. 20.7. 310, Falak Darwaza nildi, Hyderabad (A.P.)
- 5) One copy to Mr. P. Ranga Krishna Rao, Sr. CGSC, CAT, Hyd.
- 6) One spare copy.

*8/5/89
S. Venkayya
8/5/89*