

(68)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.7/90.

Date of Judgement 11.11.92.

K.V.Reddy

.. Applicant

Vs.

1. The Union Govt. of India,
Rep. by its Secretary,
Home Department, New Delhi.

2. The Chairman, U.P.S.C.,
Dholpur House, New Delhi.

3. The Govt. of Andhra Pradesh,
Rep. by its Chief Secretary,
Secretariat Buildings,
Hyderabad.

.. Respondents

Counsel for the Applicant : Shri B.Siva Reddy

Counsel for the Respondents : Shri N.Bhaskara Rao, Addl. CGSC
Shri D.Panduranga Reddy,
SC for AP

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri C.J.Roy : Member(J)

X Judgement as per Hon'ble Shri R.Balasubramanian, Member(A) X

This application has been filed by Shri K.V.Reddy
against the Union Govt. of India, Rep. by its Secretary,
Home Department, New Delhi & 2 others under section 19 of the
Administrative Tribunals Act, 1985 praying for the following
reliefs:

- (a) To set aside the Memorandum No.1425/SC.C/89-1
dt. 29.8.89 issued by the 3rd respondent, to the extent of not
continuing and including his name in the Select List of 1985
and 1986 and further direct the respondents to continue the
name of the applicant in the subsequent Select Lists of 1985
and 1986 as he is deemed to have been promoted and officiated
in the senior scale of IPS (Cadre Posting) with all consequen-
tial benefits including the year of allotment to IPS on par
with his junior - Shri P.Purnachandra Rao.

- (b) Granting all consequential benefits to the applicant.
- (c) Awarding costs to the applicant.
- (d) Pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

2. The applicant is an Ex-Army Officer who joined the Andhra Pradesh Police Service. He became eligible for appointment to I.P.S. and hoped to be included in the Select List issued in March, 1985. He was not included while 3 of his juniors were. His name was not in the subsequent Select Lists for 1985 and 1986 also. He was eventually included in the 1987 list and was promoted to I.P.S. Aggrieved, he filed O.A.No.58/87 in this Tribunal, praying for inclusion of his name in the 1984 list itself. The Bench observed that the confidential reports of officers were not maintained in accordance with the instructions of the Govt. of India. The Bench directed the Selection Committee to consider the case of the applicant afresh in the light of observations made. They also directed the Committee to adopt a procedure which will not result in applying different standards or tests or any discrimination. The Selection Committee was also directed to consider year-wise confidential reports of each officer and applying the same standard, assign a grading and then prepare the Select List. Even in the absence of any further communication to him, he learnt reliably that the Review Committee had not applied uniform standards of measuring the performance of all eligible officers while categorising them. He approached the Hon'ble Supreme Court vide S.L.P.No.14824/88. He was directed to approach the proper forum. Hence he filed O.A.No.378/89 before this Tribunal. In the meantime, the Govt. of Andhra Pradesh issued a memorandum dt. 29.8.89 stating that in spite of the inclusion of his name at Sl.11-A of the Select List of 1984, he could not be promoted

for want of required vacancies. O.A.No.378/89 was withdrawn with liberty to file a fresh O.A. questioning the said memo, which also stated that his name was not recommended for the 1985 and 1986 lists. It is contended now that in-as-much as his name found a place in the 1984 list, exclusion of his name in subsequent lists of 1985 and 1986 does not arise. Even though promoted subsequently, he wants to be treated as a 1984 selectee, and ^{to} ~~should~~ be deemed to have been promoted in 1984 itself.

3. The respondents oppose the O.A. and have filed counters. It is pointed out that assignment of grading can vary from year to year depending upon the reports considered. The placement also depends on grading assigned to others considered. It is stated that the Review Committee which met on 25.2.88 had faithfully followed the directions of this Bench in its decision of 7.8.87 in O.A.No.58/87.

4. We have heard the rival sides.

5. The contention of the applicant that he should be deemed to have been promoted to the I.P.S. in 1984 itself is not acceptable. The gradation and placement will vary from year to year depending on the reports considered, the persons considered and the vacancies. It is an evaluation of relative merits and will vary. A person graded in one year as only 'Good' may be graded as 'Very Good' next year or vice versa. Again, depending on vacancies, while one may not be able to find a place in the Select List of a certain year even with the grading 'Very Good' may be able to find a place in the Select List of the next year with just a 'Good' grading.

6. We have also examined the Review D.P.C. minutes of 25.2.88. Leaving other aspects apart, we find from paras, 3, 5 and 6 of the minutes that only the cases of the applicant and another were reconsidered for the year 1984 pursuant to directions of this Tribunal in T.A.No.849/86 and O.A.No.58/87.

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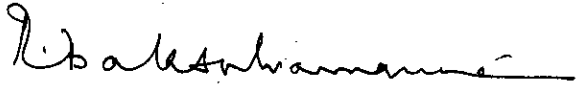
To

1. The Secretary, Union of India,
Home Department, New Delhi.
2. The Chairman, U.P.S.C. Dholpur House,
New Delhi.
3. The Chief Secretary, Govt. of A.P.
Secretariat Buildings, Hyderabad.
4. One copy to Mr. B. Siva Reddy, Advocate
3-4-526/31, Lingampally, Hyderabad.
5. One copy to Mr. N. Bhaskar Rao, Addl. CGSC. CAT. Hyd.
6. One copy to Mr. D. Panduranga Reddy, Spl. Counsel for A.P. Govt. CAT. Hyd.
7. One copy to Deputy Registrar (J) CAT. Hyd.
8. Copy to All Reporters as per standard list of CAT. Hyd. Bench.
9. One spare copy.

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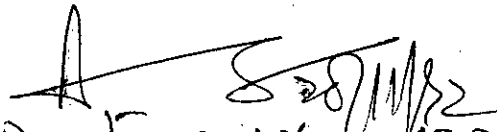
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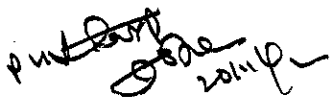
Again, for the years 1985 and 1986 only the case of the applicant was reconsidered. This is contrary to the direction of this Tribunal which directed the Committee to ~~direct~~ adopt a procedure which will not result in applying different standards or tests or any discrimination. It is evident that all the eligible officers including the applicant ^{were} evaluated by one set of standards in the first instance and when review was undertaken, it is only the applicant that is re-evaluated. Certainly, discrimination has crept in, which ~~prevents~~ precisely this Tribunal forbade. In a similar case (O.A.No.531/88 - A.P.V.Subbaiah Vs. Union of India), this Bench, in its decision dt. 16.7.91 quashed the review D.P.C. proceedings and directed the respondents to convene yet another D.P.C. for selection in an acceptable manner. Following that decision, we are inclined to direct the respondents in the same manner; but we refrain from giving such a direction in view of the order of the Hon'ble Supreme Court dt. 29.2.92 in Civil Appeal No.915/92 staying any contempt proceedings in the case we proposed to follow. We, therefore, dispose of this O.A. giving liberty to the applicant to approach us, if he chooses, in the light of the final disposal of ^{C.S.L.P. in} O.A.No.531/88 by the Hon'ble Supreme Court. No order as to costs.


(R. Balasubramanian)
Member(A).


(C. J. Roy)
Member(J).


Dated: 11 November, 1992.


Deputy Registrar (J)


put in
20/11/92