

(31)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A.No.90/1991 & 1188/91

Date of order: 1.12.91

Between

K.V.Subba Rao

... APPLICANT in  
both the OAs

A N D

1. Union of India, rep. by  
the Secretary to Govt.of India,  
Min. of Home Affairs  
(Personnel & Training),  
New Delhi.
2. U.P.S.C. rep. by its Secretary,  
New Delhi.
3. The State of Andhra Pradesh,  
rep. by the Chief Secretary to  
the Govt. of A.P., Sectt.,  
Hyderabad.
4. The Principal Secretary to  
the Govt. of Andhra Pradesh,  
Revenue Department, Sectt.,  
Hyderabad.
5. Commissioner of Land Revenue,  
Andhra Pradesh, Hyderabad.

... RESPONDENTS in  
both the OAs.

Appearance:

For the applicant : Shri G.V.L.Narasimha Rao, Advocate

For the Respondents 1&2: Shri

For the Respondents 3to5: Shri D.Panduranga Reddy, Spl.Counsel  
for the State of A.P.

CORAM:

The Hon'ble Shri R.Balasubramanian, Member (Admn.)

The Hon'ble Shri C.J.Roy, Member (Judicial)

contd...2.

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JUDGMENT

(of the Bench delivered by the Hon'ble Shri R.Balasubramanian, Member (Admn.)).

The prayer in this O.A. in so far as it relates to this Tribunal is to direct the respondents to appoint the applicant to I.A.S. with effect from 16-12-1988 with consequential benefits pursuant to the decision dated 27-4-89 of this Bench in O.A.No.263/89. In the said O.A. the Bench direction was that:

"One vacancy in the 1988 select list will be kept reserved for him till conclusion of the investigation alleged to be pending against him. If he is exonerated he will be entitled to consideration for appointment with effect from 16-12-1988 with all consequential benefits including pensionary benefits. During the pendency of the investigation he continues to be a select list officer and will be entitled to officiate in a cadre post."

Later by an order dated 16-4-1992, in R.P. 6857/87, the Andhra Pradesh Administrative Tribunal quashed the impugned disciplinary proceedings which came in the way of his promotion to I.A.S. Although he was exonerated by the A.P. Admn. Tribunal the respondents have not taken follow up action in the light of the orders of this Tribunal. Hence in the light of the A.P. Admn. Tribunal decision of 16-4-1992, the applicant has filed M.A.No.658/92 also.

2. The respondents have filed a counter opposing the O.A. It is stated that on 1-4-1989 itself he was reverted to the State Civil Service and, therefore, the question of continuing him as a select list officer (S.L.O.) did not arise. They also mention about the pending charges against him.

3. The applicant has filed a rejoinder wherein he replies heavily on the judgment dated 22-4-89 of this Tribunal in O.A. 263/89.

4. We have examined the case and heard the rival sides. The judgment dated 16-4-1992 by the A.P. Admn. Tribunal is an important development in this case which has occurred after this O.A. was filed. The counter and rejoinder are also prior to 16-4-1992. Hence the M.A. No. 658/92 is before us. At the time of hearing the M.A., Shri Panduranga Reddi opposed the M.A. on the plea that the Govt. of India propose to move the Hon'ble Supreme Court in appeal against the A.P. Admn. Tribunal's order of 16-4-1992. He also stated that yet another charge-sheet dated 3-9-1992 had been issued to the applicant. There is already prolonged litigation and at every stage the applicant has at least partly succeeded, but all his attempts for retrospective promotion are thwarted by the respondents. We are not at all impressed with their proposal to appeal to the Hon'ble Supreme Court. Unless there is an order to the contrary from the Supreme Court, the orders passed by the A.P. Admn. Tribunal and this Tribunal are binding on the respondents. The fact that there is a charge sheet dated 3-9-1992 issued long after his retirement on 30-4-1989 is irrelevant. This Bench clearly indicated in its judgment dated 27-4-1989 that if the applicant is exonerated he will be entitled to consideration for appointment to I.A.S. with effect from 16-12-1988 itself. By its decision dated 16-4-1992, the A.P. Admn. Tribunal wiped out all the charges pending against him. He was thus totally clear at the relevant time viz. 16-12-1988. In its judgment dated 27-4-1989 this Bench observed that if the applicant was exonerated, he would be entitled to appointment (to I.A.S.) retrospectively from 16-12-1988 as in the case of the applicant in O.A. No. 223/89 (Sri Ch. Sriramachandra Murthi). Thus, all these points put together, the respondents have to promote the applicant to IAS from 16-12-1988.

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3.30

5. We, therefore, direct the respondents to promote the applicant to I.A.S. with effect from 16-12-1988. He is entitled to all consequential benefits like pay fixation, increase in pension, etc. in accordance with the rules. He is, however, not entitled to difference in pay between I.A.S. and State Civil Service for the period from 1-4-1989 to 30-4-1989 when he retired. The respondents are, however, at liberty to pursue the new charge-sheet issued on 3-9-1992 in accordance with law.

6. The O.A. is disposed of thus, with no order as to costs. This order also disposes of O.A.No.1188/91 as the order passed herein will cover the prayer therein also.

R.Balasubramanian

listry

(R.Balasubramanian)  
Member (Admn.)

(C.J.Roy)  
Member (Judicial)

1<sup>st</sup>  
Dated the \_\_\_\_\_ th day of December, 1992.

Dy. Registrar (Judl.)

mhb/

Copy to:-

1. Secretary to Govt., of India, Ministry of Home Affairs, Union of India, (Personnel & Training), New Delhi.
2. Secretary, Union Public Service Commission, New Delhi.
3. Chief Secretary to the Govt. of A.P. Secretariat, State of A.P. Hyderabad.
4. The Principal Secretary to the Govt. of A.P., Revenue Deptt., Secretariat, Hyd.
5. Commissioner of Land Revenue, A.P. Hyderabad.
6. One copy to Sri. G.V.L.Narasimha Rao, advocate, 2-1-566/B/1, Nallakunta, Hyd.
7. One copy to Sri. Addl. CGSC, CAT, Hyd.
8. One copy to Sri. D.Panduranga Reddy, Spl. counsel for A.P.
9. One copy to Deputy Registrar (Judl.), CAT, Hyd.
10. Copy to Reporters as per standard list of CAT, Hyd.
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THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY : M(J)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 1/12/1992

ORDER/JUDGMENT:

R.A. / C.A. / M.A. NO.

O.A. No.

904118879

T.A. No.

(W.P. No. ....)

Admitted and Interim Directions issued

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected

No order as to costs.

pvm.

