

58

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD.

O.A.NO.1073/92

DATE OF JUDGMENT: 6-4-95

BETWEEN:

R. Krishna Reddy : Applicant

and

1. The Govt. of India
Min. of I&B, Dte. of
Field Publicity
New Delhi

2. The Directorate of Field
Publicity
Regional Office
Hyderabad

3. The Secretary
UPSC
New Delhi

: Respondents

COUNSEL FOR THE APPLICANT: SHRI K. Sudhakar Reddy
Advocate

COUNSEL FOR THE RESPONDENTS: SHRI N.V. Ramana
Sr./Addl.CGSC

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN
HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

CONTD....

OA.1073/92

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, V.C.)

Heard Sri K. Sudhakar Reddy, learned counsel for the applicant and Sri N.V. Ramana, learned counsel for the respondents.

2. The applicant joined service in July, 1971 in Central Information Service, Grade IV (CIS). He was promoted to Indian Information Service (IIS) Group B with effect from 1-1-1973.

3. In accordance with the IIS Group A Rules, 1987, 50% of the vacancies shall be filled by the Controlling authority by promotion of the officers on the basis of selection on merit of senior grade officers of IIS Group B, who ~~has~~ have rendered minimum three years regular service in the grade, and theremainin 50% of the vacancies have to be filled up by Direct Recruitment. The applicant was considered by DPC headed by Member of UPSC in 1987 for the vacancies of 1986. It is stated for thê respondents that after taking into consideration the relevant character rolls of the applicant for five years preceding year of vacancy, the DPC did not recommend inclusion of the name of the applicant in the panel of officers recommended for promotion.

4. The applicant submits that he came to know in 1992 that his name was not included in the panel that was prepared in 1987 for promotion to the post of IIS Group A, and being aggrieved he filed this OA praying for declaration that the applicant is entitled for promotion to the post of IIS Group A with effect from the date on which his immediate juniors were considered with all consequential benefits such

✓

as seniority, pay and allowance and other attendant benefits by holding that the action of the respondents in rejecting the above relief as per UO No.A.32013/1/88-CIS dated 10-10-1991 (Annexure-II) is arbitrary and illegal. In para 6(g) at page 5 of the OA it is stated that the work of the applicant might have been unjustly commented after 1985 while recording the ACRs. As the selection in 1987 was in regard to the vacancy for 1986, the ACRs upto and including 1985 are taken into consideration. When the applicant himself has not pleaded that his work was adversely commented upon up to and inclusive of 1985, no prejudice was caused to the applicant when the ACR upto and including 1985 were taken into consideration.

5. While it was stated for the applicant that there were only 22 vacancies in 1986, out of which five were reserved and as such 51 candidates only could have been considered for selection, the action of the respondents in considering upto serial No.73 is illegal, it is submitted for the respondents that ^{on} there were ~~only~~ 23 vacancies including 5 ^{vacancies} ~~which~~ and 69 were within zone of consideration, and as some in between Sl.No.1 to 73 resigned or retired, Sl.73 was also within zone of consideration (the one who was at Sl.No.73 ~~was~~ ^{held to be} Sl.1 of the Select List prepared in 1987). No rejoinder was filed for the applicant to deny ^{the above} ~~such~~ allegations for the respondents. Hence neither irregularity nor illegality is there when the candidate at Sl.No.73 was also ^{held to be} within zone of consideration.

6. It was not ~~as a result~~ ^{though} urged that pleaded that for calculating the number of candidates for being in zone of consideration, thrice the number of vacancies for OCs alone has to be taken into consideration. It is rightly stated

for the respondents that thrice the total number of vacancies including the vacancies for SC candidates have to be called for selection, and if sufficient number of SC/ST candidates are not within zone of consideration they have to go up to five times for inclusion of SCs and STs only and it is not for inclusion of OCs beyond thrice the number of total number of vacancies.

7. The applicant referred to in para 6(j) of the OA that the Cuttack Bench of CAT held that Sri Somnath Patra and Sri Sanathan Sahu who were in IIS Group-B were also entitled for promotion to IIS Group A. But in the reply statement it is pleaded that the application filed by Somnath Patra was dismissed and when the Cuttack Bench directed reconsideration of the case of Sri Sahu by convening a Review DPC to review the proceedings of the DPC held in 1985 for vacancies of 1984, the DPC convened after review did not recommend inclusion of Sri Sahu in the panel for 1984. The copy of the judgement in the case of Sri Sahu was not filed either for the applicant or for the respondents. Be that as it may, the case of Sri Sahu was in regard to 1984 while the case of the applicant was in regard to the vacancy for 1986.

8. The applicant further averred in para 6(j) of the OA that the Principal Bench of CAT, has also held that similarly situated persons are entitled for benefits referred to by the Tribunal in 1992 CSJ 134 (Punjab University vs. Miss Shabnam Kumar Wadehra). No decision in Current Service Journal starts from page 134. The Judgement of Punjab & Haryana High Court starts from page 132 in the journal and that judgement has no bearing with regard to the point for consideration in this OA. Neither the relevant OA number of the Principal Bench referred to in para 6(j) is given nor the ~~names of the parties are~~


X

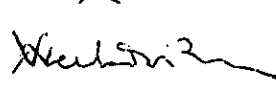
names of the parties are referred to. Probably for that reasons the reply statement is silent in regard to the same.

9. It is ^{Noted} for the applicant that the CBI started inquiry against the applicant from October, 1985 and that might have weighed ^{with} ~~that~~ the DPC in not recommending the case of the applicant. In para 6(g) of page 5 of the OA it is categorically stated that the adverse remarks were made against the applicant in the 1986 ACR. Thus it is not his case that even in ACR ^{for 1985} ~~1985~~ ^{enquiry by} ~~read by~~ the CBI was referred to. As already observed, the ACR upto and including 85 were taken in to consideration by the DPC which ~~method~~ for filling up vacancies for 1986. Hence, it cannot be stated that the ~~factum~~ ^{enquiry} ~~read by~~ CBI was placed before the DPC.

10. Of course in the reply statement it was stated that the case of the applicant was not recommended even for the vacancies of 1987, '88, and 1989 also. But as they are not subject matter ^{of} ~~to~~ this OA, we are not adverting to the same.

11. In the result, the OA fails ^{and} ~~and~~ accordingly it is dismissed. No costs./


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice Chairman

Dated : April 6, 95
Dictated in Open Court


Deputy Registrar (J)CC

To

1. The Ministry of I & B Directorate of Field Publicity,
Govt. of India, New Delhi.
2. The Directorate of Field Publicity,
sk Regional Office, Hyderabad.
3. The Secretary, Union Public Service Commission,
New Delhi.
4. One copy to Mr. K. Sudhakar Reddy, Advocate, CAT. Hyd.
5. One copy to Mr. N. V. Ramana, Addl. CGSC. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

pvm