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In the Central Administrative Tribunal, Hyderabad Bench  
Hyderabad

OA 996/93

Date of order:- 3/1/95

Between

Shri G. Prakash  
S/o Pullaiah

Applicant.

And

1. Union of India, rep. by its Secretary  
Department of Personnel Affairs,  
Ministry of Home Affairs, New Delhi-1.
2. Union Public Service Commission,  
rep. by its Secretary, Dholpur House,  
New Delhi.
3. The Selection Committee Constituted under  
Rule 3 of the Indian Forest service (Appoint-  
ment by promotion) Regulation, 1966, rep.  
by its Chairman-cum-Chief Secretary to  
Govt. of A.P., Secretariat, Hyderabad.
4. State of A.P. rep. by its Principal Secretary  
to Govt. Energy, Forest, Environment,  
Science and Technology Department,  
Secretariat, Hyderabad.
5. The Principal Chief Conservator of Forest,  
Govt. of A.P., Saifabad, Hyderabad.

Respondents

Counsel for the Applicant : Shri M.P. Chandra Mouli

Counsel for the Respondents : Shri N.R. Devaraj

My D. Panduranga Reddy, spl counsel  
for A.P. Govt.,

Coram

Hon'ble Justice Shri V. Neeladri Rao, Vice-Chairman

Hon'ble Shri R. Rangarajan, Member (Admn.)

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OA 996/93.

JUDGMENT

Dt: 3.1.95

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE-CHAIRMAN)

Heard Shri M.P.Chandramouli, learned counsel for the applicant, Shri N.R.Devaraj, learned standing counsel for R-1 and R-2 and Shri D.Panduranga Reddy, learned special counsel for R-3 to R-5.

2. This OA was filed praying for declaration that the non consideration of the applicant's case without reference to the pendency of the charge ~~mem~~ sheet dated 17.6.1991 is illegal, arbitrary and ~~x~~ void and for consequential direction to the respondents to review the select list dated 16.3.1992 which was approved by the Union Public Service Commission in their letter No.10/1(1)91-AIS, dated 24.4.1992 and <sup>t</sup>consider the case of the applicant afresh without reference to the charge sheet dated 17.6.1991 which was dropped on 7.8.1992 and for inclusion of his name at the appropriate place in the select list for Indian Forest Service Officers for the year 1991.

3. The plea of the applicant is that as the charge memo dated 17.6.1991 was issued to him, he apprehended that his case might not be considered

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by the selection committee which was going to meet on 16.3.1992 and hence he made representation dated 12.3.1992 for consideration of his case <sup>and ultimately</sup> ~~as~~ the disciplinary proceeding against <sup>him</sup> ~~him~~ upon the said charge memo was dropped by G.O.Rt.No.599 Forest.II Deptt., dated 7.8.1992.

4. The selection committee met on 16.3.1992 for preparation of the select list of Indian Forest Service Officers for 1991 from among the Forest Officers belonging to Andhra Pradesh State Service, by way of promotion. In view of the extant rules, 27 officers have to be considered for 9 vacancies. It is stated for the respondents that as only 26 officers of the AP State Service were eligible for consideration, the names of all of them which include that of the applicant were placed before the selection committee. The applicant was said to be at Sl.No.23 of the said list. Further the case of the respondents is that 8 seven officers were given ~~their~~ <sup>IL</sup> grading as 'Very Good' and out of them, six were seniors and one was junior to the applicant and <sup>IL</sup> remaining 19 were given the grading 'Good'. All the seven officers with the grading 'Very Good' were empanelled and the two senior most among those with the grading 'Good'

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were empanelled below them. But as the applicant was below in that seniority list, he was not empanelled, according to the respondents. The further case of the respondents is that it was brought to the notice of the selection committee that four of the officers were facing disciplinary proceeding and it was not communicated to the said committee that the applicant herein was also facing the disciplinary proceeding.

5. It is evident from the pleading of the respondents that the case of the applicant was considered and in fact the selection committee was not even informed that the applicant herein was facing the disciplinary proceeding. But the learned counsel for the applicant submitted that it might have been noted in the CR that the charge memo was issued to the applicant and it might have weighed with the selection committee and as the said disciplinary proceeding was dropped after the selection committee met, a direction should be given for convening a review Selection Committee for consideration of the case of the applicant afresh. But we cannot accept to the said contention for the applicant. The relevant portion of Regulation 5(4) of the Indian Forest Service (Promotion) Regulations has to be considered for adverting to the above

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pleas of the applicant and it reads as under:-

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so included in the list shall be treated as provisional if the State Government withholds the integrity certificate in respect of such an officer or any proceedings, departmental or criminal are pending against him or anything adverse against him which renders him unsuitable for appointment to the service has come to the notice of the State Government.

Explanation I: The proceedings shall be treated as pending only if a charge sheet has actually been issued to the officer or filed in a court, as the case may be.

Explanation II: The adverse thing which came to the notice of the State Government rendering him unsuitable for appointment to the service shall be treated as

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having come to the notice of the State only if the details of the same have been communicated to the Central Government and the Central Government is satisfied that the details furnished by the State Government have a bearing on the suitability of the officer and investigation thereof is essential."

6. It is manifest from the above that the selection committee has to be considered the cases of even the officers against whom the disciplinary proceedings were pending but in case they are empanelled, they should not be given the order of appointment to the service till they are exonerated in the disciplinary proceedings. In view of the said regulation, it cannot be stated that the members of the selection committee would have <sup>been</sup> carried away <sup>by</sup> ~~about~~ the pendency of the disciplinary proceeding against the concerned officer in assessing for the purpose of ~~giving~~ giving the grading. It is clear from the above regulation that as it is only in the nature of allegation when

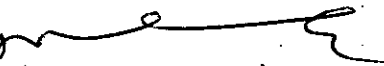
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the disciplinary proceeding is pending, the said allegation should not be taken into consideration for assessing for giving the grading. Hence, even assuming that in the CRs of the applicant, it was mentioned that the charge memo was issued to the applicant in 1991, it can be stated ~~that~~ without hesitation that the members of the selection committee had not taken the same into consideration for giving the grading.

7. Thus, there are no merits in this OA and accordingly it is dismissed. No costs./

  
(R.RANGARAJAN)  
MEMBER (ADMN.)

  
(V.NEELADRI RAO)  
VICE CHAIRMAN

DATED: 3rd January, 1995.  
Open court dictation.

  
Deputy Registrar(J)CC

To

1. The Secretary<sup>ysn</sup>,  
Dept.of Personnel Affairs, Ministry of Home Affairs,  
Union of India, New Delhi.
2. The Secretary, U.P.S.C. Dholpur House, New Delhi.
3. The Chairman-cum-Chief Secretary to Govt.of A.P.,  
Selection Committee constituted under Rule 3 of the Indian  
Forest Service (Appointment by Promotion) Regulation,  
1966, Secretariat, Hyderabad.
4. The Principal Secretary to Govt. State of A.P.,  
Energy, Forest, Environment, Science and Technology Dept.,  
Secretariat, Hyderabad.
5. The Principal Chief Conservator of Forest, Govt.of A.P.  
Saifabad, Hyderabad.
6. One copy to Mr.M.P.Chandramouli, Advocate, CAT.Hyd.
7. One copy to Mr.N.R.Devraj, Sr.CGSC. CAT.Hyd.
8. One copy to Mr.D.Panduranga Reddy, Spl.Counsel for A.P.Govt.CAT.Hyd.
9. One copy to Library, CAT.Hyd.
10. One sparecopy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO  
VICE-CHAIRMAN

AND

THE HON'BLE MR. R. RANGARAJAN : M (ADMN)

DATED: 3 - 1 - 1994

ORDER/JUDGMENT:

M.A./R.A/C.A.No.

in

O.A.No.

996/93.

T.A.No.

(w.p.)

Admitted and Interim directions  
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected

No order as to costs.

Dvm

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