

(32)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 800/94.

Dt. of Decision : 4.11.94.

M.A. Rahsem

.. Applicant.

Vs

1. The Union of India rep. by
Min. Secretary to Government,
New Delhi.
 2. The Union Public Service Commission
rep. by its Secretary,
Dholpur House, New Delhi.
 3. The State of Andhra Pradesh,
rep. by its Chief Secretary,
General Administration Department,
Secretariat, Saifabad, Hyderabad.
 4. The State of Andhra Pradesh
rep. by its Principal Secretary
to Government, Revenue Department,
Secretariat, Saifabad, Hyderabad.
- .. Respondents.

Counsel for the Applicant : Mr. N. Rama Mohan Rao

Counsel for the Respondents : Mr. N.R. Devaraj, Sr. CGSC.
for R-1 and R-2.

Mr. D. Panduranga Reddy, SC for A.
for R-3 and R-4.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

(33)

OA 800/94.

JUDGMENT

Dt: 4.11.94

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

Heard Shri N.Rama Mohan Rao, 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 and R-4.

2. This OA was filed praying for setting aside the recommendation of the Review Selection Committee as per the proceedings communicated by Memo dated 31.1.1994, for consideration for inclusion of the name of the applicant in the select list for 1991-92, by holding the same as arbitrary, unjust and for consequential direction to the respondents for reconsideration of the case of the applicant for inclusion of his name in the select list for the year 1991-92 and if he is found fit for such inclusion, for a direction for appointment of the applicant to IAS with effect from the date on which his immediate junior was appointed, with all consequential benefits such as pay fixation, payment of arrears of salary, seniority etc.

3. The Selection Committee constituted for consideration for inclusion of the names for promotion to the Indian Administrative Service from amongst Andhra Pradesh State Civil Service and Non-Civil Service cadre, met on 17.3.1992. As there ~~was delay in issuing the~~ was delay in issuing the proceedings in ~~regard~~ regard

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to confirmation of the applicant in the cadre of Deputy Collector, his case was not considered by the selection committee then. After the proceedings were issued in regard to the confirmation of the applicant with retrospective effect, it was noticed that the applicant was within the zone of consideration for select list of 1991. Then the applicant approached this Tribunal by filing OA 221/92 praying for direction to the respondents to consider the case of the applicant for inclusion in the select list for 1991. The same was disposed of by the order dated 22.3.1993 with a direction to the respondents to convene review selection committee for consideration of the case of the applicant for inclusion in the select list of 1991-92 for IAS Officers of A.P.State. It is stated for the respondents that accordingly, the selection committee met on 15.10.1993 and examined the service record of the applicant upto 1990-91 and on an over-all relative assessment and the service record of the applicant, the grading "Good" was given and as all those who were included in the select list were given higher grading. prepared on 17.3.1992, the name of the applicant could not be included in the said select list. The same was communicated by the Memo dated 31.1.1994 and it is assailed in this OA.

4. The two main contentions for the applicant are -

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(i) that the selection committee which met on 15.10.1993 might have considered the case of the applicant in isolation and consequently the element of comparative assessment is conspicuously absent; and

(ii) that the applicant was rated as "Very Good" officer if not an "outstanding" officer and in pursuance of the commendation of the Commissioner, Municipal Corporation of Hyderabad and Secunderabad in view of the saving of 48 lakhs ^{of rupees} to the Government on the basis of Land Revenue recommended to the State to sanction an incentive of increment in favour of the applicant through his proceedings dated 17.11.1992. The applicant apprehends that the same might not have been taken into consideration by the review selection committee and if ~~the same was adverted to~~ ^{the} applicant would have been given the grading of "Outstanding". Even in the absence of the same, the performance as per the Annual Confidential Reports should have been assessed as "Outstanding" as he had been rated as "Very Good" officer if not an "Outstanding" officer.

5. The proceedings of the selection committee which met on 15.10.1993 was placed before us. Therein it was stated that the grading of the applicant was given on the basis of his over-all relative assessment. In

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Page-4 of the counter for R-2, the Central Government,
it was averred as under:-

"The Review Selection Committee examined the service records of the applicant upto the year 1991 and on an over-all relative assessment of his service records visavis other eligible officers, assessed him as "Good".

On the basis of the above material, ^{the} plea of the applicant that his case was considered in isolation cannot be accepted.

6. In the above view, we do not express our views in regard to the principle laid down in the judgment reported in 1988(1) AISLJ 273 (R.C.Kohli Vs. Union of India and others), ^{that} whenever a direction is given for convening a review selection committee/DPC for consideration of a case of an officer, ^{who} which was not considered earlier, ^{with} such an officer has to be considered by way of comparative assessment. When the selection committee/DPC has to give ^{the} grading as "Outstanding", "Very Good", "Good" or "Unfit" in case of consideration for promotion on the basis of selection, the same yardstick or norm ^{would be} ~~should~~ naturally be followed. Hence, when a grading was given on the basis of performance as per ACRs, by following necessary yardstick

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or norm which ofcourse ^{is} not in writing, whether a question of relative assessment will arise, is a matter for consideration. Any how, in view of our finding on the basis of the material on record, & we are not inclined to consider ~~xxx~~ about the same for disposal of this OA.

7. When it is a case of consideration ^{date the} DPC, ~~only~~ material that was available by the ^{original} committee ~~which~~ first met alone has to be looked into. In such ^c case, any proceeding by way of commendation even if it is for the period ^{in regard to which} upto ACRs ~~that have to be~~ considered, need not be considered by the Selection Committee, ~~for~~ ^{the} review selection committee is on the basis that the name of the officer was not considered for reasons which are not justifiable. It ^{means} ~~furnishes~~ that the ~~only~~ material which would have been available by the date the selection committee first met alone should be considered, and the recommendations of such committee cannot be held as vitiated ~~x~~ if the proceedings of a ~~date xxx~~ later to the date on which the committee first met ^{even if it is} ~~though~~ in regard to the period upto which the selection committee has to consider, are not adverted to. While the selection committee first met on 17.3.1992 for consideration for inclusion in the select list for 1991-~~92~~, the ~~later~~ ^{letter} recommending sanction of the incentive increment is ^{dated} 17-11.1992, and thus ^{of} a date subsequent to the date on which the selection committee first met. Hence, even this contention also cannot be acceded to.

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Copy to:

1. The Secretary to Government, Ministry of Personnel Affairs, Union of India, New Delhi.
2. The Secretary, Union Public Service Commission
3. The Chief Secretary, General Administration Department, Government of Andhra Pradesh, Secretariat, Saifabad, Hyderabad.
4. The Principal Secretary to Government, Revenue Department, Government of Andhra Pradesh, Secretariat, Saifabad, Hyderabad.
5. One copy to Mr. N. Ram Mohan Rao, Advocate, CAT, Hyderabad.
6. One copy to Mr. N. R. Devaraj, Sr. CGSC, CAT, Hyderabad.
7. One copy to Mr. D. Panduranga Reddy, S.C. for A.P. CAT, Hyd.
8. One copy to Library, CAT, Hyderabad.
9. One spare.

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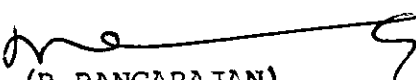
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8. Ofcourse, it is unfortunate that the name of an officer said to be dedicated and devoted was not included in the select list. The question as to whether the name of any officer will be included in the select list naturally depends upon the size of the select list and also performance in the relevant years of the other officers who are within the zone of consideration. Thus, in some years an officer whose grading is only "Good" may be included in the select list while in some years even an officer who is "Outstanding" is not included in view of the size of list.

9. It is also submitted for the applicant that this Bench may look into the relevant ACRs of the applicant and the relevant ACRs of the officers whose names were included in the select list for 1991. But we feel that such an exercise cannot be made by this Bench as no malafides were alleged to the members of the selection committee.

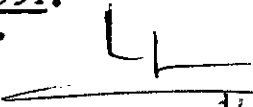
10. No other point arises for consideration. In the result, the OA is dismissed. No costs./


(R. RANGARAJAN)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 4th November, 1994.
Open court dictation.

vsn


Dy. Registrar (Judl) 11/11/94

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04-800/94

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

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

AND

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

4-11-
DATED: - -1994

ORDER/JUDGMENT:

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

in

O.A.No. 800/94

T.A.No.

(w.p.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected

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