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

O.A.NO.1487/94

DATE OF JUDGMENT: 2.5.95

BETWEEN:

J.R.ANAND

..

APPLICANT

AND

1. The State of Andhra Pradesh,
rep. by its Chief Secretary,
Secretariat Building,
Hyderabad.
2. Union of India, rep. by its
Secretary,
Ministry of Personnel & Training,
New Delhi.

..

RESPONDENTS

COUNSEL FOR THE APPLICANT: SHRI P.HARINATHA GUPTA

COUNSEL FOR THE RESPONDENTS: SHRI N.R.DEVARAJ
Sr./~~Asst.~~ CGSC

CORAM:

SHRI I.V.RADHAKRISHNA MURTHY
SC for R-1.

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

CONTD....

P. J.

O.A.NO.1487/94.

JUDGMENT

Dt:2.5.95

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

Heard Shri P.Harinatha Gupta, learned counsel for the applicant, Shri I.V.Radhakrishna murthy, learned special counsel for R-1 and Shri N.R.Devaraj, learned standing counsel for R-2.

2. The applicant is a direct recruit IAS officer of 1979 batch. He was promoted to Selection Grade with effect from 11.7.1992. His case along with his batch mates was considered for scale ~~xxxx~~ by the selection committee which met on 23.7.1994. But he was not promoted for the super time scale while some of the other officers who were considered by the said committee were given promotions to super time scale with effect from 1.8.1994.

3. The said committee observed to the applicant:-

"Based on the over-all assessment of his record of service, ^{we} recommend that he is not fit for inclusion in the panel for promotion to super time scale of IAS."

(The minutes of the said committee which were produced were returned after perusal.) Para III (3) (iv) of Department of Personnel & Administrative Reforms letter

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No.11030/20/75-AIS(II), dated 27.12.1975 (vide page 2 of the material papers filed for the applicant) lays-down that, "the reasons for supersession may be indicated ~~xxxxxx~~ in the case of officers who are not included in the panel". One of the contentions for the applicant in this OA is that what is stated in the minutes of the selection committee which met on 23.7.1994 is only a conclusion but not reasons for the conclusion. In support of the said plea, the judgment of the Apex Court in AIR 1974 SC 87 (Union of India Vs. M.L.C Kapoor) is relied upon. As per the extant rules, reasons have to be given to officers of the state cadre who were not included in the panel for promotion to IAS/IPS. In ~~Kx~~ Kapoor's case cited supra, it had become necessary to consider as to whether the following:-

"On an over all assessment, the records of these officers are not such as to justify their appointment to the Indian Administrative Service/Indian Police Service at this stage in preference to those selected"

can be treated as reasons as contemplated as per the extant rules. In para 28, ~~Mr.~~ ^{His Lordship} Justice Beg observed that "reasons (reasons given) are the links between the materials on which certain conclusions are based and the actual ~~conclusion~~ they should reveal a rational nexus between the facts considered and the

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conclusions reached. Only in this way can opinions or decisions recorded be shown to be manifestly just and reasonable. We think that it is not enough to say that preference should be given because a certain kind of process was gone through by the Selection Committee. This is all that the supposed statement of reasons amounts to. We, therefore, think that the provisions of regulation 5(5) were not complied with."

... decision of the Apex Court, it has to be held that the mandatory provision as per Para III(3)(iv) of the instructions dated 27.12.1975 to not ... infirmity, the supersession of the applicant for promotion to the post of super time scale with effect from 1.8.1994 has to be held as vitiated

5. In the above view, the matter has to be ^{remanded} remanded to the selection committee to be ^{convened} convened for the case of the applicant for consideration for promotion to super time scale with effect from 1.8.1994. ^{there} In the above view, we do not wish to express any view in regard to the other pleas raised in this case. It is just and proper to place a copy of this ^{order} OA before the review selection committee. It is needless to say that if ultimately the applicant is going to be aggrieved, he is free to move this Tribunal under Section 19 of the

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To

1. The Chief Secretary, State of A.P.
Secretariat Building, Hyderabad.
2. The Secretary, Union of India,
Ministry of Personnel & Training,
New Delhi.
3. One copy to Mr.P.Harinatha Gupta, Advocate, CAT.Hyd.
4. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
5. One copy to Mr.I.V.Radhakrishna Murty, Spl.Counsel for A.P.Govt.
CAT.Hyd.
6. One copy to Library, CAT.Hyd
7. One spare copy.

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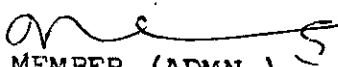
.. 5 ..

Administrative Tribunals Act, 1985. As it is a case of consideration by way of review, ACRs and the work of the ~~period~~ relevant period for consideration for promotion as on 1.8.1994 only ^{have} ~~has~~ to be looked into.

6. In the result, this OA is disposed of as under:-

R-I has to convene a selection committee for reviewing the case of the applicant for consideration for promotion to the post of super time scale with effect from 1.8.1994 on the basis of the relevant ACRs and the other record for the relevant period, in accordance with law. A copy of this OA ~~has~~ has to be placed before the members of the selection committee in order to consider various contentions raised by the applicant. ~~As the applicant is going to be~~ aggrieved, he is free to move this Tribunal under Section 19 of the Admve. Tribunals Act, 1985. The selection committee for the purpose referred to in this order, has to be convened expeditiously and preferably by the end of June 1995.

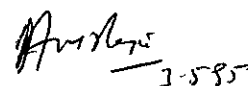
7. The OA is ordered accordingly. No costs./


MEMBER (ADMN.)


VICE CHAIRMAN

DATED: 2nd May, 1995.
Open court dictation.

vsn


Deputy Registrar (D)cc

C.C by 5/5/95
3/5/95.
TYPED BY
COMPARED BY

CHECKED BY
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 - 2 - 5 1995.

ORDER/JUDGMENT:

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

O.A.No. 1487ⁱⁿ/84.

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.

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25245
Central Administrative Tribunal
DESPATCH
3 MAY 1995
HYDERABAD BENCH