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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

...

O.A.No. 451 of 1996.

Date, 16th August, 1996.

Between:

Sri M.Satyanarayana. .. Applicant.

Vs.

1. Government of Andhra Pradesh
represented by its Chief Secretary,
Secretariat Buildings, Hyderabad.
2. The Union Public Service Commission,
Rep. by its Chairman, Dolpur House,
New Delhi -11.
3. Union of India, Rep. by its Secretary,
Ministry of Home Affairs, North Block,
New Delhi.
4. Sri T.Ashok Reddy. Respondents.

Counsel for the Applicant: Sri M.Surender Rao.

Counsel for the Respondents: Sri I.V.R.K.Murty standing
counsel for Respondent No.1.

Sri V.Rajeswara Rao, Standing
counsel for Respondents 2 & 3

Sri G.Prabhakar Reddy for
Respondent No.4.

CORAM:

HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE-CHAIRMAN. *hell*

HON'BLE SHRI H.RAJENDRA PRASAD, MEMBER (A) *8/* *16/*

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O.A.No.451/96.

Date: August, 1996.

JUDGMENT.

(AS PER HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE-CHAIRMAN.

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The applicant is one of the meritorious Police Officers of the Andhra Pradesh State Police Service. His aspiration to get promoted to the Indian Police Service (IPS for short) has been frustrated by reason of his non-selection at the last opportunity when he could be considered. Hence he has approached the Tribunal in this O.A., presented on 15-3-1996.

2. The applicant became a Member of the Andhra Pradesh State Police Service as DSP Category II in the year 1981. He was promoted as Additional S.P in February, 1989 and as non-cadre SP from 6-8-1995. In due course he became eligible for being considered for promotion to IPS and was considered for the Select List for the year 1994-95 but was not included in the list in view of grading assigned to him and also because of the limitation on the size of the Select List.

3. The Select Committee for preparing a Select List for appointment to three vacancies anticipated during the course of 12 months commencing from 22-2-1996 met on that date. The applicant was considered by the amongst eligible officers. However the Committee Committee awarded him the grading as "Good" and selected 5 officers who had earned the grading as

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"Very Good". Respondent No.4, T.Ashok Reddy, is one of the selected officers who had earned the Bench mark as "Very Good". The list having been approved by the Union Public Service Commission, the President has been pleased to appoint three select officers of A.P.Police Service namely, S.A.Sattar, G.Peter Paul and T.Ashok Reddy to the Indian Police Service on probation vide Notification dated 28-5-1996 issued by the Government of India. This notification has not been made subject matter of challenge.

4. The O.A. has been filed aggrieved by the action of the respondents (1 to 3) in not including applicant's name in the Select List prepared by the Select Committee at its meeting held on 2-2-1996. By way of relief the applicant seeks a declaration that the select list is illegal, arbitrary and contrary to rules and therefore violative of Articles 14 and 16 of the Constitution of India and that he is entitled to be included in the select list above Respondent No.4 T.Ashok Reddy and V.R.Mohan Rao and further seeks that all the selections made by the Select Committee on 22-2-1996 be set aside and pass such further orders as may be deemed fit and proper in the circumstances. Thus the challenge is thrown to the validity of the select list on the ground that the non-inclusion of

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of the applicant in the list is illegal. It may be mentioned here that apart from T.Ashok Reddy none of the other selected officers has been made a party nor the members of the Selection Committee have been made parties. /

5. Interim direction was made by the learned Single Member (A) while issuing notice before admission on 12-4-1996 to the effect that any selection made to the post of IPS for the year 1995-96 will be subject to the result of the O.A.

6. The contentions raised by the applicant which have been elaborated by Mr. Surender Rao, the learned counsel appearing for him, may be summarised as below:

(1) The Selection Committee has not acted fairly in assessing his overall service record and its assigning the lower grading as "Good" to him is perverse, whimsical, irrational and arbitrary.

(2) Having regard to his highly satisfactory service record, his having discharged heavy and precarious duties as an able Police Officer and having earned letters of appreciation, commendations and Awards, Medals, he deserved to be rated as "Outstanding" or at least 'Very Good' Officer. That goes

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to show that the Select Committee had not acted fairly and reasonably.

(3) His service record when compared with that of Respondent No.4 could not be assessed of lower merit than that of Respondent No.4. Thus placing him below the respondent No.4 in the gradation is unfair, unreasonable and arbitrary.

(4) The grading assigned to him in this manner has resulted in blocking his entry to IPS permanently as owing to age limit of 54 years he would not be eligible to be considered for the Select List of next year and thereafter. This amounts to doing great injustice to him and has resulted in his suffering frustration and injustice. Thus the principle of equal opportunity is breached and therefore results violation of Articles 14 and 16 of the Constitution.

7. The claim of the applicant is resisted by all the respondents.

8. The Government of Andhra Pradesh, Respondent No.1 inter alia contend in their reply as follows:

How to categorise the Officers in the light of relevant records and what norms have to be applied in making the assessment are exclusively the functions of

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of the Selection Committee and the applicant is not competent to question the selections made by the Select Committee comprising of high ranking officers. The applicant does not have access to the service records of other officers and cannot himself judge his own merit in comparison with them. He was not selected even in the earlier selection. The applicant merely has a right to be considered and not to be selected on the basis of his own self assessment. That was within the exclusive province of the Select Committee. There were three anticipated vacancies; hence 2 of the 5 selected officers were placed on the waiting list which is part of the select list in force. The preparation of the list for 1995-96 on 22-2-1996 does not suffer from any irregularity because the meeting was not held after expiry of the earlier list as alleged. The said respondent prays for dismissal of the O.A. Reliance is sought to be placed on the decisions of the Hon'ble Supreme Court in R.S.DAS V. UNION OF INDIA (A.I.R.1987 S.C.593) and H.L.DEV v. UNION OF INDIA (A.I.R. 1988 S.C.1069).

9. The Union Public Service Commission, Respondent No.2 contend as follows:

The Selection Committee cannot go beyond the records placed before it and find out the nature of

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duties. The awards, commendations and appreciation etc.. can only be taken into consideration when placed in the service records. The C.R. dossiers which are the very basis for the selection are confidential documents. The applicant does not have access to them. For running the administration/business of the Government the procedure has been categorically prescribed in Government of India, Allocation of Business Rules. Therefore the assessment of service records and to make recommendations on that basis for promotion is the task of the Selection Committee which comprises of high ranking officers with vast experience in the art of evaluation of service records. The Committee prepares the Select List of suitable officers in accordance with the prescribed administrative norms and procedure and nothing is left to the subjective satisfaction of the Committee. The Committee on the basis of the confidential reports evaluates the merits of the candidates and on that basis awards a grading. The method of selection is based on the past performance as disclosed in Confidential records and on that basis grading given for selection is the proper method for adjudging the suitability of the officer concerned. It is stated that the Union Public Service Commission has approved the list and conveyed the same to Government of India on 4th April, 1996. Reliance is sought to be placed on the decisions of the Hon'ble Supreme Court

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✓ in R.S.DASS (Supra) and in the Case of *Parvez Qadir Vs.*
Parvez Qadir Vs.

✓ UNION OF INDIA (A.S.R 1975-SC-446) -

In these premises it is submitted that the grading awarded by the Selection Committee to the applicant owing to which he has not been selected cannot be disputed by the applicant as the Committee was entitled to form its opinion on overall assessment about the grading to be assigned to the applicant as per the norms. The Allocation of Business Rules have, however, not been produced nor the 'Norms and Procedure' supposedly followed by the Selection Committee have been

✓ set *out*.

10. The Respondent No.4 contends in his reply that the applicant's contention that he (Respondent No.4) is junior to him is untrue and that he is also recipient of commendation letters and award. He therefore prays for dismissal of the O.A.

11. The applicant has filed a rejoinder to the counters of respondents 1 and 2. Suffice it to note that he wants to contend that the Selection Committee have ignored his merit, that he was given the remarks as 'outstanding' for two years in his A.C.Rs., that the commendations earned by him do not appear to have been placed before the Committee or considered by the Committee, that as respondent No.4 could be assigned higher grading

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he could not have been given lower grading, therefore, the select list has been arbitrarily prepared and is liable to be set aside.

12. Mr. Murthy, Mr. V.Rajeshwara Rao and Mr. K.Prabhakar Reddy, the learned counsels appearing for the respective respondents reiterated the contentions of the respective respondents noted above and have elaborated them during the course of their arguments.

13. In the light of rival contentions of the parties we think that the only point that needs determination is:

"Whether the assigning of the grading as 'Good' to the applicant by the Selection Committee is whimsical, arbitrary and contrary to the norms and is, therefore, vitiated?" +

Our answer is in the negative for the reasons to be presently discussed.

REASONS.

14. The Select List in question was prepared by the Select Committee at its meeting held on 22-2-1996 for appointment to 3 vacancies which were to occur due to retirement of Promotee IPS Officers; in accordance with

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Regulation 5(1) of the IPS (Appointment by Promotion) regulations, 1955 which provides that the number of members of the State Police Service to be included in the list shall be calculated as the number of substantive vacancies anticipated in the course of the period of 12 months commencing from the date of preparation of the list in the posts available for them under Rule 9 of the Recruitment Rules plus twenty percent of such number or two, whichever is greater. According to the counter of the State Government one more vacancy arose on 28-2-1996 i.e., after the list was prepared. Out of these ^{the} three vacancies have been filled up by the first three candidates in the Select List namely, S.A.Sattar, G.Peter Paul and T.Ashok Reddy and the 4th vacancy is yet to be filled. According to the counter of 1st respondent names of two officers namely K.Lakshman Mohan and V.R.K. Mohan Rao have been included in the select list at Sl.Nos., 4 and 5 as Reserve candidates. As they state further that as per the clarification issued by the Government of India (Department of Personnel & Training) in letter No.14015/54/95 ASI(1) dated 12-1-1996 unforeseen/fortuitous vacancies that occur during the period of 12 months are to be filled up from the 'Waiting List' part of the select list in force, it is apparent that the fourth vacancy which occurred owing to death of Y.S.N.Sarma on 28-2-1996 will be filled up by the wait listed candidate/s

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and the applicant has no chance to get in the select list by reason of occurrence of that vacancy.

15. It is argued by the learned counsel for the applicant that as the earlier list had been prepared on 14-3-1995 the next list could be prepared on or after 14-3-1996 in which case the vacancy occurring on 28-2-1996 could be taken into account which could have required four names to be selected and that could have improved the chance of the applicant to be selected but as the meeting was held prematurely on 22-2-1996 that was illegal.

Alternatively the learned counsel submits that a separate selection should have been held for that vacancy. The Respondent No.1 contends in this connection that the Regulation (5) prescribes that a Select Committee has to meet at intervals not exceeding one year and therefore there was no illegality in holding the meeting on 22-2-1996.

16. Although the arguments of the learned counsel for the applicant sounds attractive yet it is difficult to accept it to read ~~xx~~ an illegality in the impugned select list. It is true that the select list related to three substantive anticipated vacancies and the fourth vacancy could not have been anticipated. Yet having regard to Regulation 5(1) of Appointment Regulations the list had to include twenty per cent of the number i.e., 3 or two whichever is greater. Thus there are 5 names contained

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in the list-the last two as reserve candidates. The very object in providing the additional names in the list is intended to cover unanticipated vacancies that may occur during the year which can be filled by reserved candidates in the list upto two (in the instant case). The grievance of the applicant therefore could at the most relate to the two names placed in the Reserve category and with his gradation vis-a-vis ^{their} theirs. He has however made his grievance with reference to the selected candidate i.e., Respondent No.4 and not the wait listed two officers who are also not made parties. Thus inasmuch as the occurrence of the unanticipated further vacancy is concerned the grievance of the applicant goes back to his lower grading and does not rest on a separate basis.

17. That brings us to the question of overall assessment made by the Committee. It is vehemently argued by the learned counsel for the applicant that the Committee does not appear to have taken into account the appreciation letters, commendations and award earned by the applicant which speak of his excellent capability as a Police Officer and that would have gone a long way in evaluating his performance which factor would have improved his grading. The learned counsel therefore submits that the assessment of the applicant made solely on the basis of confidential reports and not the entire service record is vitiated

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rendering the select list illegal. The learned counsel further submits that the counter filed by the State Government as well as the UPSC do not reveal the norms that were adopted or the procedure that was followed by the Select Committee to determine the bench mark to be awarded to an officer. Hence the whole exercise is arbitrary for otherwise applicant could not have been awarded a lesser grading than given to Respondent No.4.

18. Regulation 5(4) of the IPS (Appointment by Promotion) Regulations 1955 provides as follows:

"The selection Committee shall classify the eligible Officers as 'Outstanding', 'Very Good', 'Good' or 'Unfit' as the case may be on overall relative assessment of their service records' (Underlines supplied)

Thus it is essential for the Committee to apply their mind to the service records and not only to the Annual Confidential reports (C.Rs). The statement in the counter of the UPSC reading "The Committee on the basis of the Confidential reports evaluated the merits of the candidates and on that basis awards a grading" is referring to a practice contrary to the Regulation and therefore cannot be accepted as correct. However, the applicant cannot draw any mileage therefrom as it is not the ^{version} of the Selection Committee.

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19. The Guidelines issued by the Government of India on the subject on 10-4-1989 (referred to from 1995(3) (CAT - GAUHATI) P.277 as these are not produced in the instant case) may also be referred to in the context of present discussion. Para 6.2.1 of the guidelines provides that --

"Confidential rolls are the basic inputs on the basis of which assessment is to be made by each DPC and the evaluation of C.Rs., should be fair, just and non-discriminatory and the suitability of the Officer for promotion should be assessed with particular reference to the C.Rs., for 5 preceding years besides the overall service record.

It also lays down that --

the Committee should not be guided merely by the overall grading, if any, that may be recorded in the C.Rs., but should make its own assessment on the basis of the entries in the C.Rs., because it has been noticed that sometimes the overall grading in a C.R. may be inconsistent with the grading under various parameters or attributes. The parameters are indicated to be assessment of work, conduct and performance and integrity to ensure greater selectivity. "

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20. In the light of these guidelines the contention of the applicant that in his C.Rs., he has been graded 'Outstanding' would not by itself be the criteria on which the Selection Committee had to base its assessment.

21. Now how do we find out whether the Committee had acted in accordance with the parameters indicated? It is well established from the various decisions of the Supreme Court that the Selection Committee is not required to record any reasons in support of the assessment made by it in respect of the Officers whose suitability has been considered by it. We may refer to the following decisions:

- ✓ 1. R.S. DASS V. UNION OF INDIA (A.I.R.1987 S.C. P593)
- ✓ 2. NIMHANS V. DR.K.KALYANA RAMAN & ORS (A.I.R.1992 S.C. P.1806)
- ✓ 3. RAMANAND PRASAD AND ANOTHER Vs. UNION OF INDIA AND OTHERS (1996(4) SCC.64)

We may also usefully refer to the decision of GAUHATI BENCH of Central Administrative Tribunal in Sri C.N.PHUKAN Vs. UNION OF INDIA OTHERS (1995(3) (CAT. 271 rendered by one of us (M.G.Chaudhari, J - Vice-Chairman as a Member of the Division Bench).

22. The Respondent No.1 have produced for our perusal the Minutes of the Selection Committee Meeting held on 22-2-1996. That shows the grading assigned to the

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15 eligible officers who were considered. The Minutes refer to the gradation as based on overall assessment. The worksheet containing the notes of the members or the method adopted however has not been produced. Even so a presumption has to be drawn that the Committee Members had gone through the exercise of assessment in accordance with the norms laid down. It is not open to the Tribunal to travel beyond the Minutes in the absence of any bias or malafides ^{being} alleged against the members of the Committee or any of them. No such allegation has been levelled by the applicant. His grievance therefore boils down to saying that the grading given to him does not accord to his own estimation and is not just. That in other words is a grievance relating to what the Committee should have thought about him and not to its competency to arrive at its opinion. Such question is not open to be gone into by the Tribunal.

✓ 23. A very ~~strong~~ ^{strong} argument has been advanced by the learned counsel of the applicant that the grading assigned to the applicant is not fair because the commendations earned by him do not seem to have been taken into account and that inference arises according to the learned counsel because the respondents have not revealed as to what norms were applied or procedure was

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followed by the Committee to carry out the overall assessment although the Union Public Service Commission has stated that the prescribed norms and procedure was followed. Submits the learned counsel that though the Committee may not be required to record reasons yet it was necessary for the respondents to disclose as to what norms and procedure was actually followed in order to show that the assessment was made fairly.

24. There is force in the arguments. Although the Committee was not under any obligation to record reasons yet the respondents had to explain satisfactorily that all the relevant record including commendations had been taken into account for grading the applicant. The Minutes of the Select Committee do not reflect that such exercise was carried out. The respondent No.1 have produced for our perusal the service files of the applicant and Respondent No.4. Upon a comparison of the two records we are unable to erase the impression that the record of the applicant could not justify his grading as "Very Good" when Respondent No.4 could be so classified. The impression therefore that the applicant has not been given a fair deal cannot be removed from our minds. However, we cannot substitute our opinion for that of the Committee. Whether to accept the grading given by it or not depends upon the fact as to whether entire service record of the applicant was

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placed before the Committee and whether the Members had applied their mind to it or not.

25. In this connection the learned counsel for the applicant has referred to the decision of the Supreme Court in NIMHANS case (Supra) in which Their Lordships have observed as follows:

".... giving of reasons for decision is different from, and in principle distinct from, the requirements of procedural fairness. The procedural fairness is the main requirement in the administrative action. The 'fairness' or 'fair procedure' in the administrative action ought to be observed. The Selection Committee cannot be an exception to this principle."

Although these observations were made in the context of the issue that fell for consideration in that case yet we feel, with respect, that the same test ought to apply in respect of impugned select list in this case also.

26. Learned counsel for the applicant, Mr. M. Swrendra Rao next relied on the decision of this Bench (C.A.T., Hyderabad) in K.V. REDDY Vs. D.G. & I.G. POLICE (1989(2)SLR Hyderabad P 233). In that case the contention of the applicant who had ~~missed~~ the selection to IPS was that throughout he had a very good record and received

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✓ appreciations from his senior Officers and was also awarded the "UTHAMA SEVA PATHAKAM" for his distinguished and outstanding service and that the very process adopted by the Review Committee to categorise the officers, who were eligible and fit for promotion without any guidelines itself suffers from the vice of arbitrariness and in the absence of any objective criteria for categorising the eligible officers into 'Outstanding', 'Very Good', 'Good' and 'unfit' it offends Articles 14 and 16 of the Constitution. He also contended that merely on the basis of his confidential Report, he ought to have been categorised as "Very Good". The Bench referred to its earlier decision in T.A.No.849/86 in which it was held "The minutes do not disclose the procedure adopted by the Committee in grading the C.R., for each year of the Officer The minutes ought to disclose the procedure/standards/tests applied by them. It is only then that its selection can satisfy the test of objectivity as opposed to subjective evaluation. This was the very apprehension expressed before the Supreme Court in Dass's case."

27. The contentions of the applicant travel on similar lines. However, his case is distinguishable on facts. In the abovementioned case it appears that the

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confidential reports were not maintained in accordance with the instructions of the Government of India and grading therein was not available. In that situation it was held (in T.A.No.849/86) that it was necessary for the Selection Committee to indicate the procedure and the standards/ tests adopted by them in grading A.C.R. of each year. Such infirmity is not alleged in this case. The only question then remains is as to whether the Selection Committee had occasion to consider and weigh the appreciations earned by the applicant. On that aspect although there is no assertion made to that effect by the respondents 1 to 3 and as we also find on perusal of the annual A.C.Rs., that there is no specific mention of the letters of appreciation from senior officers, commendations and award earned by the applicant therein, there ^{are} ~~is~~, however, two material facts revealed in that connection from the record produced before us. Firstly, the service record file of the applicant is in two parts. Part-I contains annual confidential reports year-wise since beginning of service and Part-II contains the letters of appreciation, commendations and letter of award. It has, therefore, to be presumed that since this entire record was placed before the Committee it had been taken into account for evaluating the performance of the applicant. Thus it is not possible to

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to draw an inference that material record of the applicant was not considered or that for that reason the assessment made by the Committee is vitiated.

28. The applicant states that he had earned following commendations which makes him an Outstanding Officer entitled to be graded as 'Outstanding' or at least 'Very Good'. These are:

1. Letter of appreciation dated 28-2-1986.
2. -do- dated 22-10-1986.
3. -do- dated 27-3-1987
4. Commendation by D.G., and I.G., Andhra Pradesh dated 13-12-1990.
5. Letter of appreciation dated 3-3-1991.
6. Commendation by D.G. & I.G. dated 31-12-1991.
7. Andhra Pradesh Police Commendation Certificate dated 5-8-1992.
8. Letter of appreciation dated 23-12-1992.
9. -do- dated 25-4-1994.
10. -do- dated 20-9-1994.
11. A.P. Police Commendation certificate by Joint Commissioner of Police dated 21.9.1994.
12. Commendation Certificate by Collector and District Magistrate dated December, 1994
13. Letter of appreciation dated 8.5.1995
14. Commendation by D.G & I.G. dated 26-8-1995
15. Award of A.P. Police UTTAMA SEVA PATHAKAM vide Order of Government dated 31-3-1995 to be awarded on 1-4-1995 on the eve of Ugadi for the distinguished services. (The Order listed 51 officers and the applicant's name figures at Sl.No.10)

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29. The inclusion of the applicant in the list of
of the Pathakam
awardees could not be relevant as the Selection Committee
meeting was held on 22-2-1996 (before the date of award)
and it is too far fetched a contention that had the meet-
ing been held in April it could have been considered.
Moreover the award was not singular to the applicant
but was given to many other officers. Amongst the awardees
was included V.R.K.Mohan Rao who is one of the wait listed
candidates.

30. Part-II of the Service file of the applicant
contains items at Sl.Nos., 1, 3, 4, 6, 12, 13, 14, 15, 16 and
even 17. Sl.Nos., 2, 5, 9, 10 and 11 are not included.
Sl.Nos., 2, 5, 10 and 11 are not too significant to make
much difference and as item 13 has been included the
non-inclusion of Sl.No.9 is also not of much consequence.

31. It cannot therefore be held that this record has
not been considered by the Selection Committee. It must
necessarily follow that despite the same the Committee
while making overall comparative assessment of all the
officers and of the selected officers in particular had
objectively classified the officers and in the process
the applicant ~~x~~ was not awarded a higher grading. Even
though we feel that he deserved to be awarded a higher
bench mark, it is not sufficient to interfere with the
assessment made by the Committee as it is not open to

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us to substitute our opinion for that of the Committee. Suffice it to say it is not a sufficient ground to hold that the Committee has acted illegally or unfairly.

31. It would be relevant to mention in this context that the respondent No.4 has stated that he had received the following commendation letters:

1. 1988 For work of Assembly elections.
2. 1990 For work of General Elections.
3. 1991 For plenary session at Tirupathi and
4. 1992. Uttama Seva Pathakam.

His C.R. File lists:

1. A.P. Commendation Certificate issued by D.G. & I.G. for Security work.
2. Commendation for General Election work 1991 and also notes his achievement in building up and running Police Recruit School and his keen interest in Practical Training Unit.

It cannot be said therefore that the Selection Committee had no comparable material to evaluate applicant and Respondent No.4. What yard-stick to apply to the said material lay entirely within the province of the Committee.

32. Secondly, we notice that in the annual C.R. of the applicant for the period from 5-1-1995 to 31-3-1995 the gist of his having earned most of the appreciations and commendations for the work for which these were awarded has been given and he was given the remark

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"Outstanding". This material being before the Committee, it has to be presumed that it was considered by the Committee.

33. We therefore find it difficult to reach the conclusion that the evaluation made by the Selection Committee in respect of the applicant is either whimsical or arbitrary or is otherwise vitiated. We answer the point for determination in the negative; consequently the applicant is not entitled to be granted the relief prayed for.

34. After having ^{reached} the above conclusion on merits we are inclined to add following observations:

38. The applicant appears to be a meritorious Police Officer. With his past record, it is somewhat baffling, as to how he could be rated only as "Good". It is difficult to say that the merit and suitability of the applicant and Respondent No.4 is not equal. Although in x terms of law we may not be able to review the classification yet we are left with an uneasy feeling that injustice has resulted to the applicant more particularly because he will have no further chance of being considered for IPS as he had crossed the age limit of 54 years in February, 1996. Relaxation of eligibility age of 54 years under Rule 3 of the AIS(Conditions of Service- Residuary

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Matters) Rules, 1960 would not be permissible in view of the decision of the Supreme Court in SYED KHALID RIZVI V. UNION OF INDIA (1994 SCC (L & S) 109. The absence of chance of promotion may generate frustration and may result in dampening the enthusiasm of the applicant to put in his ^{best} ~~best~~ in the cause of the service. Such a situation ought to be avoided in the interest of the service itself.

35. We find that the selection was made for three anticipated vacancies due to occur ~~on~~ on retirement of three officers. It is stated in the counter of Respondent No.1 that "these three vacancies were to occur due to retirement of promotee officers". It is also stated that "after the Committee met one more vacancy has arisen on 28-2-1996 due to the demise of a promotee officer, Sri Y.S.N.Sarma, I.P.S. (SPS.85). This fact was intimated to the U.P.S.C., as well as the Government of India, Ministry of Home Affairs by the State Government in letter d/4.4.1996. S/Sri S.A.Sattar, G.Peter Paul and T.Ashok Reddy, who have been included in the Select list have been appointed to the I.P.S., by the Govt. of India in their notification dated 28-5-1996"

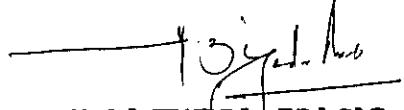
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Thus the three vacancies for which selection was made have been consumed. That leaves the 4th vacancy arisen on 28-2-1996, ^{available} It is likely that the wait list candidates may be considered for filling that post. The post is not yet filled. We, therefore, feel that if the applicant could be placed in the waiting list additionally, he will be able to avail one more chance at the selection for 1996-97 as then being in the impugned select list his crossing 54 years in the meanwhile would not render him ineligible for being considered. However, for that purpose a review D.P.C., will have to be constituted to reevaluate the service record of the applicant and if he earns the Bench mark as "Very Good" or above, then it would have to be considered whether he could be included as a wait list candidate in the impugned select list dated 22-2-1996. We hope that ~~xx~~ this suggestion will receive due attention from the respondents 1 to 3 and suitable steps in the matter will be initiated. With this optimistic note we proceed to pass the following

Order:

Subject to observations made in the last paragraph above, the O.A., is dismissed.

No order as to costs.

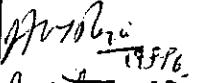

H. RAJENDRA PRASAD
MEMBER (A)


M.G. CHAUDHARI, J
VICE-CHAIRMAN.

Date: 16th AUGUST, 1996.

Pronounced in open Court.

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Deputy Registrar (O.C.C.)

O.A.451/96.

To

1. The Chief Secretary,
Govt. of A.P. Secretariat Buildings,
Hyderabad.
2. The Chairman, U.P.S.C. Dholpur House,
New Delhi-11.
3. The Secretary, Ministry of Home Affairs,
Union of India, North Block,
New Delhi.
4. One copy to Mr. M. Surender Rao, Advocate, CAT.Hyd.
5. One copy to Mr. I. V. Radhakrishna Murthy, Spl. Counsel for A.P. Govt.
CAT.Hyd.
6. One copy to Mr. V. Rajeswar Rao, Addl. CGSC. CAT.Hyd.
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE M.G.CHAUDHARY
VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD

Dated: 16- 8 -1996

ORDER / JUGMENT

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

in
O.A.No. 451/96.

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.

pvm

केन्द्रीय प्रशासनिक अधिकार बैठक
Central Administrative Tribunal
मेल/DEEPATCH

23 OCT 1996 N.S.

केन्द्रीय प्रशासनिक अधिकार बैठक
HYDERABAD BENCH