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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH:

AT HYDERABAD

O.A.No.401 of 1996.

Date of Order:29-6-1998

Between:

E.Poorna Prakash.

.. Applicant

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1. Union of India, represented by its Secretary, Ministry of Home Affairs, North Block, New Delhi.
2. The Union Public Service Commission, rep., by its Secretary, New Delhi.
3. The State Government of A.P., rep. by its Chief Secretary, Secretariat, Hyderabad, A.P.
4. The Director General & Inspector General of Police, Government of A.P., Hyderabad.
5. Government of A.P., rep. by its Principal Secretary, Home Department, Secretariat Buildings, Hyderabad, Andhra Pradesh.
6. S.A. Sattar, Father's Name & Age not known, Principal, Police Trg. College, Amberpet, Hyderabad.
7. G. Peter Paul, Father's name & age not known, Commandant III Bn. A.P.S.P., Kakinada, East Godavari.
8. T. Ashok Reddy, Father's Name & age not known, Superintendent of Police (Non-Cadre), Group Commander (SSF), Hyderabad.
9. K. Laxmana Mohan, Father's & age not known, Superintendent of Police, Vigilance Cell, Civil Supplies Department, A.P., Hyderabad.
10. V.R.K. Mohan Rao, Dy. Commissioner of Police, Visakhapatnam City, Visakhapatnam District.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr. K. Prabhaker Reddy

COUNSEL FOR THE RESPONDENTS :: Mr. N.R. Devaraj  
Mr. P. Narayana Rao.

CORAM:

THE HON'BLE SRI R. RANGARAJAN, MEMBER (ADMN)

A N D

THE HON'BLE SRI B.S. JAI PARAMESHWAR, MEMBER (JUDL)

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ORDER

(AS PER HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN) )

None for the applicant. Mr.N.R.Devaraj for the Respondents 1 and 2. Sri P.Naveen Rao for Respondents 3 to 5. Notice has been served on Respondent No.6, 8 and 10; but they were not present. Even though notice had been sent to Respondents 7 and 9 on 17-5-1996, acknowledgements had not been received from them. As the O.A. was filed in the year 1996, we are disposing of this OA in accordance with the Rule 15(1) of the C.A.T. Procedure Rules, 1985.

2. The short facts of the case are as follows:-

3. The applicant in this O.A. who is an S.C. community candidate is presently working as Regional Intelligence Officer, Visakhapatnam Region in the rank of Superintendent of Police (Non-Cadre). He was initially selected as Deputy Superintendent of Police (Category-II) by the Andhra Pradesh Public Service Commission and was appointed to the said post on 16-2-1977. Thereafter, the applicant was promoted to the post of Additional Superintendent of Police (Non-Cadre) in the year 1986 and was promoted as Superintendent of Police (Non-Cadre) on 29-7-1995.

4. The applicant submits that his promotion as Superintendent of Police (Non-Cadre) and Additional Superintendent of Police (Non-Cadre) was prepared by considering the cases of officers in the rank of Deputy Superintendent of Police in the order of seniority and

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hence he should rank senior to others who were considered for promotion to IPS by selection in the DPC held on 22-2-1996. The applicant also submits that he is to be considered as suitable candidate in view of his promotion as Additional Superintendent of Police and Superintendent of Police though he was posted in those posts against Non-cadre posts.

5. This O.A. is filed for setting aside the select list of 1995 and the unapproved select list prepared for 1996 on 22-2-1996 by the Select Committee and for a consequential direction to the official respondents to assign the appropriate grading as per the ACRs taking into consideration of all relevant materials i.e., commendation letters etc. and to consider the case of the applicant for inclusion in the select list of 1995 and 1996 and confirm the applicant in the cadre of IPS thereon with all consequential benefits such as seniority, pay and arrears etc.,.

6. A reply has been filed in this O.A. The contention of the respondents is that the officers are considered for IPS cadre by promotion on the basis of the seniority in the cadre of Deputy Superintendent of Police (Category-II). The applicant in this O.A. stands at Serial No.6 in the seniority list of Deputy Superintendent of Police (Category-II) of Government of Andhra Pradesh who were considered for promotion to IPS cadre. His case was considered along with others for appointment to IPS cadre by promotion in accordance with the IPS Promotion Regulations 1955 by the Select Committee on 22-2-1996. But he was not considered eligible

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for promotion in view of the gradings given to him by the DPC. The officers elevated to IPS cadre had obtained Very Good grading, whereas the applicant got only Good. In view of that he was placed Junior in the panel junior to those who had obtained grading Very Good. As none of the officers who had obtained Good grading were promoted to IPS cadre by selection, the applicant cannot have any grouse for his non-selection to IPS in the year 1995 and 1996. Hence the O.A. is liable only to be dismissed.

7. We have perused Regulation 5 of the IPS Promotion Regulations, 1955 which gives the ruling in regard to the seniority list to be followed for promotion to the IPS cadre. The Regulation stipulates that the seniority position of the candidates in the cadre of Deputy Superintendent of Police (Category-II) is to be followed. It is evident from the proviso of the Regulation 5(2). This proviso reads as under :-

"Provided also that the Committee shall not consider the case of member of the State Police Service unless on the first day of April of the year in which it meets, he is substantive in the State Police Service and has completed not less than eight years of continuous service (whether officiating or substantive) in the post of Deputy Superintendent of Police or in any other post or posts, declared equivalent thereto by the State Government."

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8. This proviso clearly indicates that the officers in the rank of Deputy Superintendent of Police (Category-II) should be called for consideration for promotion to the IPS in that order, who had completed eight years of service in the post of Deputy Superintendent of Police or any other post or posts declared equivalent thereto by the State Government. The regulation does not state that those working in higher non-cadre posts should be given higher seniority. That would mean that the seniority list of Deputy Superintendent of Police (Category-II) should only be considered even if some of them were working in higher grades in Non-cadre posts. The rule does not provide for any advantage to be given to the officers working in the higher grade of Additional Superintendent of Police or Superintendent of Police (Non-Cadre) to get seniority above the Deputy Superintendent of Police (Category-II) seniority list. Hence the applicant was considered for selection in accordance with the seniority list of Deputy Superintendent of Police and his name stood at Serial No.6 in that seniority list who were considered for promotion.

9. The grievance of the applicant appears to be that he had worked in higher status in Non-cadre post and that will give him advantage for promoting him to the IPS cadre on the basis of higher seniority and better grading. There is no Rule or instruction produced before us to come to that conclusion. Due to exigencies of service the applicant ~~could~~<sup>might</sup> have been asked to work as Additional Superintendent of Police or Superintendent of Police (Non-Cadre) probably ignoring the seniority list in the cadre of Deputy Superintendent of Police (Category-II). The respondents could have

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explained the reasons for posting him as Additional Superintendent of Police (Non-Cadre) and Superintendent of Police (Cadre) ignoring the seniors, if any, in the cadre of Deputy Superintendent of Police (Category-II). But unfortunately we find there is no such mention in the reply. The learned Counsel for the State of Andhra Pradesh could not explain the reasons. We feel that the reply has been filed without fully adverting to the contentions raised by the applicant in this O.A. Even if, the applicant had worked due to some reason or the other in the higher grade as stated earlier, he cannot claim any preference over others in the grading given in Confidential Report and the grading assigned to him by the Selection Committee.

10. It has been clearly stated in the reply that the grading given to the applicant is only Good, whereas those who were promoted to the cadre of IPS were awarded the grading of Very Good. As per selection rule for promotion to the post of IPS, the eligible officers has to be classified giving the position to Outstanding Group Officers first, possessing Very Good grading below Outstanding and those who are graded Good below the officers graded Very Good. It is evident from the Regulation 5(4) of the IPS Promotion Regulation Rules, 1955.

11. It is clearly stated that the applicant was graded as Good and those who had placed in the select list were all having grading of Very Good. Hence the applicant cannot demand for placing him above the Officers possessing the grading of Very Good. It is also stated that the Officers who were graded as Good were not at all empanelled.

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Hence the applicant cannot aspire to become IPS in the select list of 1995 and 1996.

12. The Court/Tribunal cannot sit and comment on the gradings given by the Selection Committee. The Selection Committee comprises of Senior Officers of the Department and their wisdom cannot be questioned by the Court/Tribunal unless malafides are attributed to the Selection Committee Member/Members. The above is in accordance with the observations of the Supreme Court in number of cases. Hence we do not think it fit for us to question the grading given to the applicant for promotion to the IPS cadre. No malafides has been attributed to any of the members of the Selection Committee. Hence on that score also the selection cannot be questioned.

13. In view of what is stated above, we find no merits in this O.A. Hence the O.A. is dismissed. No costs.

*B.S. Jai Parameshwar*

( B.S. JAI PARAMESHWAR )

MEMBER (JUDL)

29.6.98

*R. Rangarajan*

( R. RANGARAJAN )

MEMBER (ADMN)

Dated: this the 29th day of June, 1998  
Dictated to steno in the Open Court

*Handwritten initials and date*  
D.R. 6-7-98

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DSN

DA. 401/96

Copy to:-

1. The Secretary, Ministry of Home Affairs, North Block, New Delhi.  
The Secretary,
2. The Union Public Service Commission, New Delhi.
3. The Chief Secretary, State Government of A.P., Secretariat, Hyd.
4. The Director General & Inspector General of Police, Govt. of A.P. Hyderabad.
5. The Principal Secretary, Home Department, Secretariat Building, Hyderabad.
6. One copy to Mr. K. Prabhakar Reddy, Advocate, CAT., Hyd.
7. One copy to Mr. N.R. Devaraj, Sr. CGSC., CAT., Hyd.
8. One copy to D.R. (A), CAT., Hyd.
9. One duplicate copy.
10. *one copy to Mr. P. Venkatesh, Secy to Govt.*

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19/7/98

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II COURT

TYPED BY  
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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :  
M(B)

DATED: 29/6/98

ORDER/JUDGMENT

M.A./R.A./C.P.NO.

in

C.A. NO. 401/96

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
श्रेयस / DESPATCH  
13 JUL 1998  
HYDERABAD BENCH