

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 1774 OF 1997Dated, the 12th November, '98.

BETWEEN :

N. Ramamurthy Rao

.... Applicant

A N D

1. Union of India represented by the Secretary, Department of Personnel and Training, Central Secretariat, North Block; NEW DELHI-110 001.
2. Union Public Service Commission represented by its Secretary, Dholpur House- NEW DELHI.
3. Government of Andhra Pradesh, represented by its Chief Secretary, A.P. Secretariat Buildings, Hyderabad.
4. The Principal Secretary to Government Revenue Department, A.P. Secretariat Buildings, Hyderabad.
5. The Commissioner of Land Revenue, Government of Andhra Pradesh, Nampalli Station Road, Hyderabad. ... Respondents

COUNSELS :

For the Applicant : Mr. G. Gopala Rao

For the Respondents : Mr. N.R. Devaraj
&
Mr. P. Naveen Rao

CORAM :

THE HON'BLE MR. H. RAJENDRA PRASAD, MEMBER (ADMIN)

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

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O R D E R

(PER: HON'BLE MR. B.S. JAI PARAMESHWAR, MEMBER (J)

1. Heard Mr. G. Gopala Rao, Learned Counsel for the applicant and Mr. N.R. Devaraj, Learned Standing Counsel for the Respondents No.1 and 2 and Shri P. Naveen Rao, Learned Standing Counsel for the Respondents No.3 to 5.
2. The applicant herein is a State Civil Service Officer in the Revenue Department in the State of Andhra Pradesh. His name was found in the list of eligible officers for consideration for promotion to the I.A.S. Cadre A.P. charge. The DPC met on 29.3.97. The DPC considered the cases of the State Officers to fill up the 16 vacancies in the IAS Cadre by promotion. The promotions are governed by the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 (in short the "Regulations 1955")
3. The applicant, apprehending that his name may not be recommended by the DPC which met on 29.3.97, the applicant had earlier approached this Tribunal in O.A.506/97. On 26.9.97 after considering the various grounds urged by the applicant as well as by the respondents, this Tribunal made the following observations :

"We have no doubt in our mind that the case of the applicant will be reviewed in the next DPC meeting for inclusion of the officers for promotion to the IAS cadre during the next year; since it has been verified and stated that he will be within the prescribed age limits for consideration. We hope, the applicant will fare better before his case comes for consideration for promotion".

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4. Thereafter, the applicant sought certain clarifications in the said order and after hearing the Learned Counsel for the applicant, on 23.10.97 this Tribunal made the following clarifications :

"It is hereby clarified that what was intended in para-11 (page 7 of the judgment) was that the case of the Officer should be considered ofresh during 1997-98. This observation had to be made on account of the fact that the applicant had (erroneously)mentioned that he would be crossing the age limit for such consideration. But the position was clarified during the hearing of the case by the respondents to the effect that the officer would be within the prescribed age limit.

Mr. G. Gopala Rao mention that since the disposal of the case four new vacancies have arisen. If the respondents propose to fill up these vacancies and also propose to convene a DPC for the purpose before the regular DPC is held for 1997-98, the case of the officer may be duly taken note of and considered purely on merit."

5. In the meanwhile, the Government of India by its Notification No.11033/15/95-AIS(II)-A dated 31.12.97 increased the cadre strength of the promotion quota by 13 more posts and the said increased posts were to be utilised over a period of three years as detailed below :

1998	- 4 vacancies
1999	- 4 vacancies
2000	- 5 vacancies
	<hr/>
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6. In view of the increase in the cadre strength by the OM dt. 31.12.97, the applicant has filed this O.A. for the following reliefs :

- to declare that the five vacancies which arose

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during the panel year 1996-97 for appointment by promotion to the Indian Administrative Service, in the State of Andhra Pradesh, consequent to the amendment to the Indian Administrative Service (Fixation of Cadre Strength) Regulations, 1955 issued by the Union Government by their Notification No.11031/4/93 AIS (II)-A dated 22.7.1997, Ministry of Personnel P.G & Pensions (Department of Personnel and Training) and published in the Gazette of India dated 9.8.1997 shall have to be filled by the candidates who are eligible as on 1.4.1998 and suitable for such appointment only, that they cannot be carried forward for the panel year 1997-98 for being filled up by the candidates eligible as on 1.4.1997 and consequently direct the respondents to call for the meeting of the Selection Committee immediately and to select candidates for additional inclusion in the select list for the year 1996-97 and for appointment to the Indian Administrative Service and also to consider the case of the applicant for such selection and appointment to Indian Administrative Service.

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7. After considering the various grounds raised by the applicant in the O.A. and also after hearing the Learned Counsel for the applicant, this Tribunal sought a short reply from the respondents No.3 to 5 covering the clarifications on the following points :

- (i) It is stated that the strength of the IAS of AP cadre was revised recently by enhancing the promotion quota by 5. Is this final and are the current vacancies going to be calculated on this basis.
- (ii) Is there any specific prohibition for conducting the second DPC for a particular year if a situation so warrants ? Is the present ~~at~~ position of unfilled vacancies such a situation warranting the convening of the second DPC ?
- (iii) It is stated that recently a select committee met for selecting one officer for promotion to IAS for the year 1996-97 who was outside the panel. This is stated to be subsequent to the judgment dt. 26.9.97. Did the name of the applicant come up for consideration ? If not why ?
- (iv) Under the rules was there any scope for filling up of more than two fortuitous vacancies which may have arisen during the year 1966-97.

8. Accordingly, the respondents No.3 to 5 have filed a reply contending that the DPC which met on 29.3.97 had considered all the eligible Officers and approved a list of 16 names against the anticipated vacancies of 14 during the year 1997-98; that after the approval of the said list and during the currency of the said panel 5 more additional

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vacancies had arisen on account of cadre review vide Notification dt. 22.7.97; that from the approved panel, only 14 persons were given appointment on 29.12.97 against the vacancies that had arisen as on 1.12.97 and also by utilising the 5 additional vacancies sanctioned vide Notification dt. 22.7.97; that the Govt. of India in its Notification dt. 31.12.97 amended the Regulation 1955; that as per the amendment the Regulation 1955 reads as under :

1. The recruitment year commences on the first day of January and ending on the thirty-first day of December of the same year ;
2. The Committee shall select persons which shall not exceed the number of substantive vacancies as on the first day of the year in which the meeting is held.

9. That in view of the direction of the Hon'ble Supreme Court, the Govt. of India directed the State Government to review the appointments made to the IAS (Promotion Quota) from among the SCS Officers from the year 1987 onwards, with regard to the preparation of the Select Panel for the vacancies/posts available as on 1.1.98 (including four additional further posts which arose on 1.1.98), the Govt. of India has/ advised the State Government to take up preparation of Selection List only for 1998/after the review of the appointments to IAS from the year 1987 onwards was finalised. Thus any select list that can be prepared for the vacancies available as on 1.01.98 can only be assessed and completed only after compliance of the directions of the Hon'ble Supreme Court regarding review of the earlier Select Lists from the year 1987 onwards; that in view of the said explained position and also the rule position notwithstanding the cadre review and enhancement of cadre strength, the Committee to prepare a select list which meets only once in a year that too for considering the vacancies arisen as on 1.1.98; that the select list of 16 officers

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against 14 substantive posts have to be given postings against the fortuitous vacancies and that therefore the question of preparing a panel as and when the vacancies ~~may~~ ^{occur} not arise, even if the vacancies arise during the course of the year; that a DPC was convened on 30.6.98 to consider the selection of one officer from amongst the officers belonging to Non-SCS Cadre; that the applicant is a SCS Officer (Revenue); that in the said meeting the case of the applicant could not be considered; that the DPC had met on 29.3.97; that the said DPC graded the applicant as "unfit" and hence he could not find a place in the select panel; that having been classified as unfit in DPC held on 29.3.97 even in the case of possible review the case of the applicant will not come up for consideration; and that the vacancies for the year 1998 will be considered only after complying with the directions of the Hon'ble Supreme Court i.e. reviewing the promotions to the IAS Cadre from 1987 onwards.

10. The applicant appears to be more anxious to get the promotion to the cadre of IAS. In fact, the DPC held on 29.3.97 had graded him as "unfit". The applicant taking advantage of the observations made by this Tribunal while disposing of the O.A. 506/97 attempted to get a direction from this Tribunal to consider his case against the additional vacancies those arose after 29.3.97.

11. The respondents have categorically stated that vacancies arising as on 1.1.98 will be taken up for consideration only after compliance of the directions of the Hon'ble Supreme Court for reviewing the earlier promotions made to the IAS Cadre from the year 1987 onwards and that being the position, we cannot direct the respondent No.3 to 5 to consider the case of the applicant for promotion to the cadre of IAS. We hope and trust



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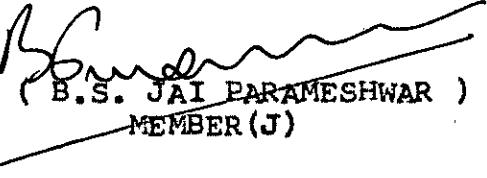
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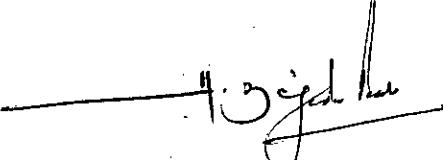
that the respondents will certainly consider the case of the applicant as per his turn taking due note of the observations made by this Tribunal in O.A. 506/97 and also the order dated 23.10.97.

12. In view of the facts discussed above, we are of the opinion that no direction can be given to the Respondents No.3 to 5 to consider the case of the applicant against the posts arose out of the Cadre review as per the OM dt. 31.12.97.

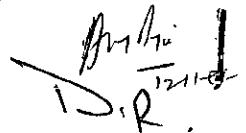
13. As observed above, we have no hesitation to add that the respondents No.3 to 5 will take up the case of the applicant for consideration as per his turn.

14. With the above observations, the O.A. is disposed of leaving the parties to bear their own costs.


B.S. JAI PARAMESHWAR)
MEMBER (J)


(H. RAJENDRA PRASAD)
MEMBER (A)

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Dated, the 12th November, '98.

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OA.1774/97

Copy to:-

1. The Secretary, Department of Personnel and Training, Central Secretariat, North Block, New Delhi.
2. The Secretary, Union Public Service Commission, Dhelpur House, New Delhi.
3. The Chief Secretary, A.P.Secretariat Buildings, Hyderabad.
4. The Principal Secretary to Government Revenue Department, A.P.Secretariat Buildings, Hyderabad.
5. The Commissioner of Land Revenue, Government of Andhra Pradesh, Nampalli Station Road, Hyderabad.
6. One copy to Mr. G.Gopala Rao, Advocate, CAT., Hyd.
7. One copy to Mr. N.R.Devaraj, Sr.GGSC., CAT., Hyd.
8. One copy to Mr. P.Naveen Rao, Advocate, CAT., Hyd.
9. One copy to HBSJP M(J), CAT., Hyd.
10. One copy to D.R.(A), CAT., Hyd.
12. One duplicate copy.

" SRR
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23/11/98

II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPR VED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

H. Rajendra Prasad
THE HON'BLE SHRI ~~R. ANGARAJAN~~ : M(A)

AND

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

DATED : 3

12/11/98

ORDER/JUDGMENT

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

in

O.A.NO. 1774/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

REORDERED/REJECTED

NO ORDER AS TO COSTS

Y LKR

