

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A.No.506 of 1997

Date of Order - September, 1997

Between :

N. Ramamurthy Rao Applicant

And.

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. The Government of Andhra Pradesh, represented by its Chief Secretary, A.P. Secretariat Building, Hyderabad.
4. The Commissioner of Land Revenue, Government of Andhra Pradesh, Nampally Station Road, Hyderabad.
5. The Principal Secretary to Government, Revenue Department, A.P. Secretariat Buildings, Hyderabad.

..... Respondents

Counsel for the Applicant - Mr. G. Gopala Rao.

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

Counsel for the Respondents 3 to 5- Mr. P. Naveen Rao, SC for AP Govt.

CORAM :

Honourable Mr. H. Rajendra Prasad, Member (Admn.)

Honourable Mr. B.S. Jai Parameshwar, Member (Judl.)

O R D E R.

(As per Hon. Mr. B.S. Jai Parameshwar, Member (Judicial))

1. Heard Mr. G. Gopal Rao, learned counsel for the applicant, Mr. N.R. Devaraj, learned counsel for the respondents 1 and 2 and Mr. P. Naveen Rao, learned counsel for the respondents 3 to 5.

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2. This is an application under Section 19 of the Administrative Tribunals Act. The application was filed on 21.4.97. The applicant is officiating as Deputy Collector effective from 4.8.1983 and his services were regularised effective from 26.9.1984. The applicant claims to have put in 30 years of service in the Revenue Department and 13 years of service in the cadre of Deputy Collector. Thus he claims to be eligible for promotion to the I.A.S. cadre in Andhra Pradesh charge. In the O.A. he has described the relevant provisions of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 (in short, 'Regulations 1955'). He submits that there are 16 vacancies in the I.A.S. cadre to be filled up by promotion during the year 1996-97 and that the Commissioner of Land Revenue, Government of Andhra Pradesh has submitted a list of State Civil Service officers for consideration for promotion to the I.A.S. cadre for the year 1996-97. He has explained the record of his past service. His name was found in the list of the eligible officers for consideration. He further submits that the D.P.C. met at Delhi on 29.3.1997.

3. Relying upon the newspaper reports and apprehending that the D.P.C. has not recommended his name for promotion, he filed this O.A. for the following reliefs :-

To declare that the applicant is entitled for selection for promotion to Indian Administrative Service both on the grounds of seniority and merit and in preference to others who have been selected and consequently direct the respondents to select the applicant for promotion to Indian Administrative Service in preference to others who are selected for the year 1996-97 and to promote the applicant to Indian Administrative Service with all consequential benefits.

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4. On 20.5.1997 this Tribunal passed an interim order directing the respondents to ear-mark one post in the I.A.S. cadre for promotion from S.A.S. cadre and to keep the same vacant till the next date of hearing. Further it was directed that in the meanwhile if the select list was received from the Government and in case the applicant's name did figure in the same, then it should be open to the respondents 3 to 5 to bring the said fact to the notice of this Tribunal by a special mention for modification of the interim order if justified at that point of time.

5. The respondents 1 and 2 have filed their counter stating that they do not come in the picture of preparing the names of officers eligible for consideration for promotion to the I.A.S.; that it is the respondents 3 to 5 and the D.P.C. who are the authorities to consider and prepare the panel of eligible officers for promotion and that on the basis of such panel, they will issue notification promoting the officers.

6. The respondents 3 to 5 have filed their counter alleging that the averments made in para-6(c) of the O.A. regarding the seniority of the applicant is his own imagination; that the position of the applicant in the list of eligible officers was at serial No.4; that his case was considered by the Selection Committee; that above the name of the applicant, names of (1) Sri Boina Venkateswara Rao, (2) Sri V. Wilson Rao and (3) Sri K. Krishna Rao were included; that the applicant cannot judge his personal records; that the seniority is relevant only to the extent of ensuring that the officers within the zone of consideration are the seniormost eligible State Civil Service officers placed before the Selection Committee for consideration that once the list of officers is placed before the Selection Committee, their seniority does not play any role as to the

gradation of the officers to be given by the Selection Committee; that the Selection Committee after considering the cases of the officers within the zone of consideration on an overall relative assessment of those officers, graded the applicant as "unfit" and thus was not recommended for inclusion of his name in the select list for the year 1996-97; that the Explanation-I under Regulation 5(4) of the Regulation 1955 states that the proceedings shall be treated as pending only if a charge sheet has actually been issued to an officer or filed in a Court, as the case may be; that as such no disciplinary proceedings were pending against Sri Boina Venkateshwara Rao, Sri K.Krishna Rao, Sri R.V. Chandravadan, Sri G. Balaramaiah, Sri M.V.Satyanarayana and Mohd. Ali Rafath; that in view of such position, the averments made by the applicant in the O.A. that disciplinary cases were pending against them are far from truth; that their inclusion is based on the relative assessment of the officers with reference to the annual Confidential reports considered by the Selection Committee; that the select list for the year 1996-97 was also prepared on the basis of relative assessment of officers in the zone of consideration and in that the applicant was graded 'unfit' and as such he was not included in the select list; that the application has become infructuous as the select list has been prepared and finalised; that there is no justification to keep a post vacant for the applicant and that there are no grounds in the O.A. and therefore the O.A. be dismissed.

7. The learned counsel for the applicant during the course of his arguments vehemently contended that the ACRs of the applicant were more blemishless than some of the officers who have been graded as 'Outstanding' and 'Very Good' by the Selection Committee. Such forcful submission made by the learned counsel for the applicant prompted us to

summon the ACRs of Sri B. Venkateshwara Rao, Sri K. Krishna Rao, Sri R.V.Chandravadan, Sri G.Balaramaiah, Sri M.V. Satyanarayana and Mohd. Ali Rafath as also that of the applicant. On 19.9.1997 the respondents 3 to 5 produced the ACRs of the aforesaid officers and that of the applicant. We have perused the ACRs of those officers including that of the applicant in the presence of the learned counsels for the parties. After perusing the ACRs we are now convinced that the assessment made by the DPC on the basis of the applicant's overall performance was not incorrect or unfair in any way.

The respondents 3 to 5 have also furnished the Note and Material for Preparation of Select List of S.C.S. officers for 1996-97 and the minutes of the proceedings held on 29.3.97.

8. On going through the proceedings we do not find any irregularity in the panel list prepared by the D.P.C. The Tribunal or the Court cannot sit in appeal over the D.P.C. In the case of Mrs. Anil Katiyar vs. Union of India and others reported in 1997(1) SLR 153, the Hon'ble Supreme Court of India in paras-4 and 5 of the judgment has observed as follows :

" 4. Having regard to the limited scope of judicial review of the merits of a selection made for appointment to a service or a civil post, the Tribunal has rightly proceeded on the basis that it is not expected to play the role of an appellate authority or an umpire in the acts and proceedings of the DPC and that it would not sit in judgment over the selection made by the DPC unless the selection is assailed as being vitiated by mala fides or on the ground of it being arbitrary. It is not the case of the appellant that the selection by the DPC was vitiated by mala fides.

5. The question is whether the action of the DPC in grading the appellant as "very good" can be held to be arbitrary. Shri G.L.Sanghi, the learned senior counsel appearing for the Union Public Service Commission, has placed before us the confidential procedure followed by the DPCs in the Union Public Service Commission for giving overall gradings, including that of "outstanding",

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to an officer. Having regard to the said confidential procedure which is followed by the Union Public Service Commission, we are unable to hold that the decision of the DPC in grading the appellant as "very good" instead of "outstanding" can be said to be arbitrary. No ground is, therefore, made out for interference with the selection of respondent No.4 by the DPC on the basis of which he has been appointed as Deputy Government Advocate. But, at the same time, it must be held that the Tribunal was in error in going into the question whether the appellant had been rightly graded as "outstanding" in the ACRs for the year 1990-91 and 1991-92. The observations of the Tribunal that out of the two "outstanding" gradings given to the appellant one "outstanding" grading does not flow from various parameters given and the reports entered therein, cannot, therefore, be upheld and are accordingly set aside."

9. During perusal of the ACRs of the officers, we happened to notice that in certain cases, officers who had once earlier been under investigation, and even suspension on occasion, were found suitable and duly empanelled whereas the applicant who had no blemish of any kind or any communicated/uncommunicated or expunged adverse entries in the ACRs throughout his career could not be so empanelled. This fact, even though quite unrelated to the overall assessment and grading given to all officers, ought perhaps to be taken note of by the concerned authorities and the DPC at an appropriate juncture.

10. The learned counsel for the respondents 3 to 5 relied upon various decisions of the Hon'ble Supreme Court of India and other High Courts only to convince us that this Tribunal has no jurisdiction to consider the propriety or otherwise of the DPC held on 29.3.1997. The DPC has taken into consideration the relative assessment of the officers and also that of the applicant. We cannot subscribe a contrary view as to the decision of the DPC with regard to the assessment of the applicant except the observation we have made in para-9 above, since we find no illegality

or irregularity in the decision taken by the DPC. The DPC has graded the applicant as 'unfit'. That only means that he was not fit to be recommended for inclusion in the select list.

11. 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.

With the above observations, the OA is ~~dismissed~~ ^{disposed of} *24/9*


No order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDICIAL).


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE).

Dated the 26th September, 1997.

DJ/


Deputy Registrar (D.R.)

O.A.506/97.

To

1. The Secretary, Union of India,
Dept.of Personnel and Training,
Central Secretariat, North Block,
New Delhi-1.
2. The Secretary, U.P.S.C. Dholpur House,
New Delhi.
3. The Chief Secretary, Govt.of A.P.
A.P.Secretariat Building, Hyderabad.
4. The Commissioner of Land Revenue,
Govt.of A.P.Nampally Station Road,
Hyderabad.
5. The Principal Secretary to Govt.
Revenue Dept. A.P.Secretariat Buildings,
Hyderabad.
5. One copy to Mr.G.Gopala Rao, Advocate, CAT.Hyd.
6. One copy to Mr.N.R.Devraj, Sr.CGSC. CAT.Hyd.
7. One copy to Mr.F.Naveen Rao, Spl.Counsel for A.P.Govt. CAT.Hyd.
8. One copy to HBSJP,M.(J) CAT.Hyd.
9. One copy to D.R.(A) CAT.Hyd.
10. One spare copy.

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12/6/97
TYPED BY:

I Court.
CHECKED BY:

COMPARED BY:

APPROVED BY:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE.
VICE-CHAIRMAN

And

THE HON'BLE MR. H. RAJENDRA PRASAD :M(A)

The Hon'ble Mr. B.S. Jaisankaran, M.C.

DATED:- 26/9/97.

ORDER/JUDGMENT.

M.A../RA../C-A.No..

in

O.A.No. 506/97.

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.

