

132

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

O.A.NO.555 OF 1997.

DATE OF ORDER :- 2nd MARCH, 1998.

BETWEEN :

K. SIDDARTHA GOUTHAM, S/o Venkanna,
Hindu, aged about 48 years, Occup:
Special Grade Deputy Collector,
presently working as Estate Officer,
Municipal Corporation of Hyderabad,
Tank Bund, Hyderabad.

.. APPLICANT

A N D

1. Union Public Service Commission,
represented by its Secretary,
Dholpur House, New Delhi-1.
2. The Union of India represented by
its Secretary, Ministry of Home,
Department of Personal Affairs,
Government of India, New Delhi.
3. Government of Andhra Pradesh,
rep. by its Chief Secretary,
Secretariat, Hyderabad.
4. B.Kishore, S/o and age not known
Project Director, D.R.D.A.,
Mahaboobnagar.
5. M.V.Satyanarayana, s/o & age not known,
Deputy Secretary to Governor,
Raj Bhavan, Andhra Pradesh,
Hyderabad.
6. C.Parthasaradhi, s/o & age not known,
Project Director, D.R.D.A.,
Adilabad.
7. Y.V.Anuradha, Project Director,
D.R.D.A. Visakhapatnam.
8. V. Udayalaxmi, Project Director,
D.R.D.A., Guntur.
9. K. Damayanthi, Deputy Secretary,
Revenue Department, Secretariat,
Hyderabad.
10. D.Kadmiel, Joint Collector,
Ananthapur.
11. R.V.Chandra Vadhan, S/o & age not known,
Collector, Telugu Ganga Project, Nellore.
12. G.Balaramaiah, s/o & age not known,
District Revenue Officer, Ananthapur.
13. Mohd. Ali Rafath, s/o & age not known.,
Joint Collector, Khammam. RESPONDENTS

COUNSEL FOR THE APPLICANT : MR.S.L.CHENNA KESAVA RAO

COUNSEL FOR THE RESPONDENTS 1 & 2:MR.N.R.DEVARAJ,SrCGSC

COUNSEL FOR RESPONDENT NO.3 : MR.P.NAVEEN RAO,
SPECIAL COUNSEL FOR
GOVERNMENT OF A.P.

COUNSEL FOR RESPONDENTS 4 & 6: MR. C.SURYANARAYANA

COUNSEL FOR REST RESPONDENTS: NONE.

CORAM :

HONOURABLE MR.H. RAJENDRA PRASAD, MEMBER(ADMINISTRATIVE)

HONOURABLE MR.B.S.JAI PARAMESHWAR, MEMBER(JUDICIAL)

....

O R D E R.

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

1. Heard Mr.S.L. Chenna Kesava Rao, the learned counsel for the applicant, Mr. N.R.Devaraj, the learned Standing Counsel for the respondents 1 and 2, Mr. P. Naveen Rao, the learned Special Counsel for the Government of Andhra Pradesh (respondent No.3) and Mr.C.Suryanarayana, the learned counsel for the respondents 4 and 6. The respondents 5, 7, 8, 9 and 11 to 13 though notices were served in person, have remained absent. At the time hearing, neither the learned counsel for the respondent No.10 nor the respondent No.10 himself was present.

2. This is an application under Section 19 of the Administrative Tribunals Act. The application was filed on 31.4.1997.

3. The facts giving raise to this O.A. may, in brief, be stated thus :-

(a) The applicant was selected by the A.P.P.S.C. for appointment to the post of Deputy Collector (Category/II) in Andhra Pradesh Civil Services (Executive Branch) by direct recruitment. He belongs to 1983-84 batch. He submits that he belongs to S.C.

132

community. It is his case that he was appointed to the State Civil Service against 19 point roster. He was appointed as Deputy Collector (Category II) vide G.O.Ms.No.768(Revenue) dated 10.8.1987. Presently he is working as Special Grade Deputy Collector on OSD as Estate Officer, Municipal Corporation of Hyderabad.

(b) It is his case that against roster point 5 reserved for S.C., one K.Devanand, was selected and against roster point 11 reserved for S.T. candidates, one Sri H.Ramulu was appointed. Sri K.Devanand, according to the applicant, did not report for training. Hence his name was deleted from the list. However, during the year 1989 said Devanand requested the respondent No.3 to admit him for the training and to place him at the bottom in the list. His prayer was conceded by the respondent No.3.

(c) Since Sri Devanand who was appointed against SC point roster had not reported for duty, the respondent No.10 who was selected on the basis of merit and also belonged to S.C. was placed at 5th point roster. The case of the applicant is that he should have been placed at 5th point roster as there was no other S.C. candidate against the reserved category then.

In this connection, the applicant submitted a representation dated 7.12.1996.

(d) On 31.12.1996 the Commissioner, Land Revenue, sent proposal to the respondent No.1 containing the list of eligible candidates for appointment to the I.A.S. in accordance with the I.A.S.(Appointment by Promotion)Regulations,1955. It is his case that the proposal was sent to the respondent No.1 without

Jr

deciding his representation dated 7.12.1996. The applicant filed O.A.No.1477 of 1997 before the A.P.Administrative Tribunal. The Tribunal issued an interim order dated 21.8.1997 directing the respondents in the said O.A. to dispose of the representation dated 7.12.1996 of the applicant and to take action in accordance with the rules and that the decision so taken should be communicated to the Committee constituted by the respondent No.1. It appears that the said O.A. is still pending adjudication before the A.P.Administrative Tribunal, Hyderabad.

(e) The D.P.C. met on 29.3.1997 considered the eligibility of the candidates including that of the applicant proposed by the respondent No.3. That D.P.C. had not considered the claim of the applicant that he should be placed against the 5th point roster in place of Sri K.Devanand.

(f) The respondent No.2 communicated the select list In No.F.14015/18/97/AIS(I) dated 6.6.1997 to the respondent No.3. In the said list the name of the applicant was not included.

(g) The applicant submits that he had a clean and good service record. He submits that no communication ever was/received by him relating to any adverse entries in hisACRs.

(h) The applicant has explained the service particulars and performance of duties by the respondent No.12 and one B.Venkateswara Rao(not a party to this O.A.) and submits that their service record even though was not upto the mark they were included in the select list. He further submits that in view of 77th amendment to the Constitution of India by which Article 16(4)(A)

Br

was introduced, the cases of the officers belonging to S.C. and S.T. should have been separately considered and a separate list should have been prepared and had the respondent No.2 followed such a procedure, he would have been figured in the select list.

(i) The applicant apprehends that the respondent No.3 had not supplied the full and sufficient particulars to the respondents 1 and 2 to place before the D.P.C. The respondent No.3 also failed to take a decision on his representation dated 7.12.1996; that the respondent No.3 had not performed its duties while sending the proposal to the respondents 1 and 2 for promotion to the I.A.S. Cadre; that the respondent No.3 had included in the proposal certain officers who were junior to him; that the respondents 1 and 2 ignored his legitimate claim for consideration and promotion to the I.A.S. and that the select list prepared by the respondent No.2 is not proper.

(j) The applicant further feels that non-inclusion of his name in the select list may be due to certain vague allegations made against him which were not then crystalised either into a charge sheet or in a departmental proceeding or a charge before a competent court of law and that the D.P.C. should not have been taken note of such allegations in view of the proviso to Rule 5(5) of the Regulations, 1955. He submits that as he was served with a Memo. of charges on 5.7.1997 issued under Proceedings No.16765/DCB-L-2/95 dated 21.5.1997, the select list prepared by the D.P.C. on 29.3.1997 was based on motivated and false reports.

(k) Hence he has filed this O.A. for the following reliefs :-

Jr.

To call for records relating to F.No.14015/18/97-AIS(i), dt.6.6.1997 communicated by the 2nd respondent to the 3rd respondent and set aside the same and consequently further direct the respondents to consider the case of the applicant for inclusion in the select list of officers for appointment by promotion to I.A.S. cadre under I.A.S.(Appointment by Promotion) Regulations,1955 strictly in accordance with the said regulations ignoring any unfounded allegations that have not crystallised either into a charge sheet in departmental proceedings or charges before a court of law as on 39.3.1997 when the select committee met duly taking into account his 5th place in the seniority among the Deputy Collectors of the 1983-84 batch, his unblemished record of service as well as rule of reservation as embodies in various orders of the Government of India.

4. On 16.6.1997 the _____ Tribunal passed an interim order that any promotion made to the I.A.S. Cadre on the basis of the D.P.C. proceedings dated 29.3.1997 is subject to the outcome of this O.A.

5. The respondent No.1 is the Union Public Service Commission(in short, 'the Commission'). The Under Secretary of All India Services Wing of the Commission has sworn to an affidavit. In the reply it is stated that the Commission is a constitutional body; that promotion to the I.A.S. cadre is made in accordance with the Regulations,1955; that the Selection Committee makes selection of the SCS officers based on proposals, data, service particulars, seniority and records furnished by the concerned State Governments; that the Commission accords approval to the recommendations of the Selection Committee after taking into consideration the views of the State as well as Central Governments; that the Selection Committee met on 29.3.1997; that the Government of A.P. had intimated 14 vacancies in the

promotion quota; that as per Regulation 5(1) of the Regulations 1955 the size of the select list was determined as 16; that as per Reg.5(2) of the Regulations, 1955 the zone of consideration should have been at 48; that however the Government of A.P. had sent proposals of only 19 officers vide their letter dated 18.2.1997; that in the said proposals, the name of the applicant was included at Sl.No.17 in the eligibility list for 1996-97; that the case of the applicant was duly considered by the Selection Committee; that overall relative assessment of the service record of the applicant, the Selection Committee graded him as "unfit" and his name was not included in the select list; that the promotion to I.A.S. is made on the basis of the merit; that the selection has been made strictly in accordance with rules; that the ACRs of the eligible officers are the basic inputs on the basis of which the eligible officers would be categorised and graded as "Outstanding", "Very good", "Good" and "Unfit". The Commission further stated as regards apprehension of the applicant that his name might not have been included in the select list on account of certain vague allegations made against him which had not been crystallised into either a charge sheet in a departmental proceedings or a charge before a court of law. _____ stated that there was no bar for consideration and inclusion in the select list of any officer against whom a departmental enquiry was pending. However, in such a case, the officer if found suitable/overall assessment of his service particulars, inclusion of his name in the select list would be provisional in accordance with the proviso to Regulation 5(5) of the Regulations 1955; that the Government of A.P. had brought to the notice of the

Tr

Selection Committee that no disciplinary proceedings were pending against any of the eligible officers; that accordingly the apprehension of the applicant that his name might not have been included on account of certain allegations or departmental proceedings was unfounded; that as regards the claim of the applicant for his placement at roster point No.5 the Commission submitted that the maintenance of seniority of the State Civil Service Officers comes under the purview of the State Government; that the Commission mainly relies on the information and documents furnished by the State Government; that the select list of 1996-97 was communicated by the Government of India, Department of Personnel and Training vide the letter dated 6th June, 1997 to the respondent No.3 and that it was prepared in accordance with the rules.

The Commission as regards selection by the DPC and recommendations etc. has relied upon the following decisions of the Hon'ble Supreme Court :-

- (a) R.S.Das v. Union of India
AIR 1987 S.C. 590.
- (b) Nutan Arvind v. Union of India
(1996)2 SCC 488
- (c) Durga Devi v. State of Himachal Pradesh
1997 SCC (L&S) 982
- (d) Union Public Service Commission v. H.L.Dev and others. AIR 1988 SC 1069
- (e) State of Madhya Pradesh v. Srikant Chapekar. JT 1002(5) SC 633
- (f) D.A.Solanke v. B.S.Mahajan
AIR 1990 SC 434
- (g) Anil Katiyar v. Union of India and others
1997(1) SLR 153
- (h) Mir Gulam Hussain v. Union of India
1994 ASR (SN-2).

Tr

6. The respondent No.3 has filed a counter stating that on account of non-reporting of Sri K.Devanand, his name was deleted from the list; but however by order dated 24.6.1989 it had considered the representation of the said Devanand and restored the appointment of Sri Devanand as Deputy Collector to 1982-83 subject to his taking last rank.

As regards the case of the respondent No.10 it was stated that he was selectd against the O.C. roster point No.37 (Sl.No.15); that the applicant was against SC roster point No.41 (Sl.No.19) in the list approved by the A.P.P.S.C. The name of the respondent No.10 finds place at Sl.No.5 roster point No.21 meant for SC in the order of regularisation. The name of the applicant who was appointed against S.C. roster point No.41 was placed against roster point No.37 meant for OCs at Sl.No.15 while the name of the respondent No.10 who was appointed against the OC roster point was placed against roster point meant for S.C. without issuing notices to the persons included in 1983-84 batch. It is further stated that the representation dated 7.12.1996 sent by the applicant contained a request to modify the dates of regularisation of the candidates who had not passed the test pre-requisite for declaration of probation and to place him at Sl.No.5 in place of SC candidate which was earlier given to Sri Devanand. It is submitted that the regularisation orders were issued in accordance with the Rules. It is submitted that a provisional decision was taken by the respondent No.3 for restoration of the seniority of Sri Devanand in the batch of PDCs for the year 1983-84 by placing him at Sl.No.5 meant for S.Cs. (i.e. his original place as communicated by the APPSC); that the Commissioner, Land Revenue, had called for objections and issued notices to the persons likely to be affected and as per the directions, objections

received from the respondent No.10 and the applicant were also taken into consideration and the claim of Sri Devanand was rejected and necessary orders were issued. The applicant had not made a claim for placing him at Sl.No.5 in the regularisation orders.

They further submit that the D.P.C. on an oral assessment of the service records of the applicant graded him as "unfit". The D.P.C. included the name of one G.Balaramaiah in the select list subject to issue of Integrity Certificate in his favour by the respondent No.3 which is yet to be issued; that the respondent No.1 convened the D.P.C. meetings at Delhi; that the D.P.C. did not wait for the decision on the individual representations submitted as late as on 7.12.1996. The D.P.C. considered the cases of all the eligible officers. They submit that the service particulars of all the officials were placed before the D.P.C.; that the appointment of S.C.S. officers to the I.A.S. by promotion is governed by the Regulations 1955.; that the Regulations 1955 do not contain any provision or rule for reservation of S.C. and others while considering their cases for appointment to I.A.S.; and that the names of the officers were proposed in accordance with the seniority.

7. In the O.A.No.787 of 1997 filed by the applicant before the A.P.Administrative Tribunal, Hyderabad, the Tribunal gave certain directions and in compliance with the said directions, an Integrity Certificate with respect to the applicant was issued. Even though the name of Sri G.Balaramaiah was included in the select list, no Integrity Certificate was issued in his favour. The D.P.C. graded the applicant as "unfit". The respondent No.3 admits that there are no adverse entries in the ACRs of the applicant. However, it is submitted that while submitting the proposals to

the respondent No.1 there was contemplation of initiating disciplinary action against the applicant and no charges at that time were framed. It is only on this ground the Integrity Certificate was issued in favour of the applicant. However, during the year 1996-97 he was served with a Charge Memo. The applicant has hastily approached this Tribunal and that the O.A. be dismissed with costs.

8. The respondents 4 and 6 in their counter stated that the applicant has not exhausted his grievances before the Departmental Grievance Redressal channel and has rushed to the Tribunal; that the vacancies to be filled up by SC/ST candidates have not been indicated in accordance with the provisions of Rule 22 of the General Rules of Andhra Pradesh Subordinate Services (Part II) which came into force from 7.3.1962; that against the vacancy at Sl.No.15 Sri D.Kadmiel, respondent No.10, was included in the original select list prepared by the A.P.P.S.C.; that the said respondent No.10 though belonged to the S.C. category was selected on the basis of merit; that the said respondent No.10 had secured marks higher than the applicant; that the applicant was selected against roster point No.19; that therefore, on account of non-reporting of Sri K.Devanand who was placed at Sl.No.5, the respondent No.3 was justified in placing the respondent No.10 against 5th point roster and the only person belonging to S.C. category who is just below Sri K.Devanand can only aspire for the roster point No.5; that in between Sl.Nos.5 and 19 the respondent No.10 was at Sl.No.15 as a meritorious candidate than the applicant; that the applicant cannot claim a place above these respondents; that at best the applicant may be placed at point No.15 and not at point No.5; that even though the seniority does not play any role, once the list of eligible candidates is placed before the Selection Committee, the Selection Committee

gives grading to each and every SCS officer and that grading alone determines whether a candidate can be promoted and appointed to the I.A.S. cadre; that therefore, the claim of the applicant to place him at roster point No.5 is unreasonable.

They have relied upon a decision of the Hon'ble Supreme Court in the case of Post Graduate Institute of Medical Education and Research v. K.L.Narasimhan, reported in AIR 1997 SC 3687.

9. The respondent No.10 has filed his reply stating that he had appeared for the competitive examination conducted by the A.P.P.S.C. during the year 1987; that he was placed at Sl.No.15 on the basis of merit and not on the basis of reservation; that Sl.No.15 was meant for O.C. and on the basis of over all merit the applicant was shown at Sl.No.19 which was roster point for S.C. category and that Sri K.Devanand was placed at roster point No.5; that the roster points 5 and 19 are reserved for S.C. candidates; that Sri Devanand failed to report for the training; that the respondent No.3 deleted his name from the select list and accordingly placed him in place of Sri Devanand at roster point No.5; that he was the candidate belonging to S.C. category just below Sri Devanand; that he was meritorious than the applicant; that as per the interim directions of the A.P. Administrative Tribunal, Hyderabad, the name of the applicant was included in the proposals; that himself and the applicant are entitled for the benefits of Rule 22 of the State Subordinate Service Rules; that the claim of the applicant to place him at roster point No.5 is unreasonable and that the O.A. be dismissed.

3r

10. The applicant has filed a reply to the counter filed by the respondent No.3 mostly reiterating the averments made in the O.A.

11. The grievance of the applicant as regards his placement at Sl.No.5 on account of non-joining of Sri K.Devanand is not the subject matter of this O.A. In fact, the applicant has filed O.A.No.1477 of 1997 for the said relief in the A.P.A.T. Therefore, we feel it not proper to dwindle into that point in this O.A.

12. The applicant in paragraph-6.f. of the O.A. has made certain allegations against one B.Venakateswara Rao whose name finds place in the select list. The said B.Venkateswara Rao is not a party to this O.A. Hence we feel it proper not to take cognizance of any averment made by the applicant against Sri B.Venkateswara Rao.

13. The main relief claimed by the applicant in this O.A. is to set aside the select list prepared by the Selection Committee of the Commission on the basis of the meeting held on 29.3.1997. It is an admitted fact that the respondent No.3 had proposed the name of the applicant on the basis of the interim orders passed by the A.P.A.T. in O.A.No.1477 of 1997. From the averments made by the Commission, it is clear that the Selection Committee took into consideration the service records, data and other particulars of the applicant while considering his eligibility for promotion to the I.A.S. cadre. It is also an admitted fact that there are adverse entries in the ACRs of the applicant. Merely because his ACRs do not contain adverse entries, it cannot be said that the Selection Committee must grade him "Outstanding" as the Commission states that it has taken into consideration the overall relative assessment of the service records of the applicant. The Selection Committee has to take into consideration not only the adverse remarks/contained in the ACRs but also assess and adjudicate the suitability of the candidate

149

for promotion to the I.A.S. cadre. It is seen from the affidavit filed by the respondent No.1 and the respondent No.1 Commission that at the time when the respondent No.3 included the name of the applicant in the proposals it ^{had} indicated about the contemplation of the disciplinary proceedings against the applicant. No doubt as on the date i.e. 29.3.1997 when the D.P.C. met there was no charge sheet pending against the applicant either in a departmental proceeding or in a court of law. However, the Selection Committee took this fact into consideration and having regard to the overall assessment has graded him as "unfit".

14. The learned counsel for the applicant vehemently contended that when the Selection Committee graded the applicant as "unfit", it was bound and obliged to disclose the reasons. Thus the learned counsel for the applicant contended that the decision of the Selection Committee is arbitrary. In the case of Sri Anil Katiyar v. Union of India and others, the Hon'ble Supreme Court has held that the Tribunal cannot sit in judgment over the selection made by the D.P.C. unless the selection is assailed as being vitiated by mala fides and on the ground of it being arbitrary. Otherwise, the Court of Tribunal cannot embark upon the assessing the service records and eligibility of a particular candidate to the promotion. Here, no mala fide intention has been attributed to the Commission. The applicant does not deny the fact that when his name was included in the proposals, certain investigations were pending. No doubt, pendency of investigation may not be a ground for the Selection Committee to grade him

3r

"unfit", but it has taken into consideration that factor also while assessing the service records of the applicant. In fact on 5.7.1997 the applicant was served with a Memorandum of Charges, dated 21.5.1997.

15. In this background, we feel that the decision of the Selection Committee in grading the applicant as "unfit" cannot be regarded either as mala fide or arbitrary. The applicant has not shown how the decision of the Selection Committee is arbitrary. In our humble opinion, the Selection Committee is not obliged to record reasons while grading an officer. If that is so, then the Selection Committee has to record reasons for each and every grading. It is stated that the Selection Committee on over all assessment of the service records of the officers proposed by the State Government concerned, marks the grading as "Outstanding", "Very good", "Good" and "Unfit". It is on the basis of this grading the select list will be prepared by the Commission. If such a contention of the applicant is accepted, then the Selection Committee is to disclose reasons for every grading of an officer. As already stated by the Commission, the Selection Committee took into consideration the views of the State Government and the Central Government and having regard to the relative assessment of the service records and other particulars furnished by the State Government concerned, it makes selection and grading the officers, we cannot find any fault with the decision of the Selection Committee. Merely because the applicant has been graded as unfit, we cannot compel the Selection Committee to disclose the and reasons to deviate from the procedure hitherto adhered to. When the Selection Committee has adopted such kind of procedure since the Regulations 1955 came into force, it

D2

may not be proper or reasonable for us to direct the Selection Committee to disclose reasons in case it grades an officer as "unfit".

16. The applicant has challenged the selection proceedings dated 29.3.1997. The Selection Committee consists of the persons of high calibre and integrity. While assessing the eligibility of the officers for promotion to the I.A.S. cadre, the Selection Committee has to act impartially taking into consideration the views made by the State Government as well as the Central Government and the service records of the officer concerned. We have no doubt in our mind that the Selection Committee does not act arbitrarily or in a prejudicial manner. Merely because the Selection Committee has not disclosed the reasons for grading the applicant as "unfit" in its decision dated 29.3.1997, it cannot be imagined that the Selection Committee acted arbitrarily. Another contention raised by the applicant is that he has clean ACRs. That means, no adverse entries have been made in the ACRs. This fact has also been admitted by the respondent No.3 in its counter. On this ground the learned counsel for the applicant submitted that the grading of the applicant by the Selection Committee as unfit without disclosing the reasons is arbitrary. We do not think so. Moreover, we cannot suspect the decision of the Selection Committee as arbitrary merely because it has not stated its reasons. As already observed, in our humble opinion, the Selection Committee is not expected to record any reasons for the gradings given to the officers in the selection.

17. The Hon'ble Supreme Court of India in the case of R.S.Das v. Union of India & others, has observed as follows :-

" The Selection Committee is constituted by high ranking responsible officers presided over by Chairman or a Member of the Union Public Service Commission. There is no reason to hold that they would not act in fair and impartial manner in making selection. The recommendation of the Selection Committee are scrutinised by the State Government and if it finds any discrimination in the Selection it has the power to refer the matter to the Commission with its recommendations. The Commission is under a legal obligation to consider the views expressed by the State Government along with the records of officers, before approving the select list. The Selection Committee and the Commission both include persons having requisite knowledge, experience and expertise to assess the service records and ability to adjudge the suitability of officers. In this view we find no good reasons to hold that in the absence of reasons the selection would be made arbitrarily."

18. The applicant belongs to S.C. community. Relying upon Article 16(4)(A) of the Constitution of India, the applicant submitted that his case should not have been considered along with the officers of other and community; that his case should have been considered against the reserved category. It is his submission that the rule of reservation is applicable even in the case of selection of officers to the I.A.S. Thus he submitted that had the Selection Committee considered his case taking into consideration his community and unblemished ACRs, he could have been graded as "Outstanding" among the S.C. candidates.

19. To this submission, the learned counsel for the respondent No.3 submitted that the promotion to the I.A.S. cadre is governed by the All India Services Act, 1951 and the Regulations, 1955, when there is no amendment to the Regulations 1955 to terat the SCS

Dr

149

reserved officers of the SC community on different scale while making recommendations to the promotion to the I.A.S. cadre. It is his case that the rule of reservation may not be applicable in the case of considering the eligibility of SCS officers for promotion to the I.A.S. cadre. The respondents 4 and 10 in support of their contention and also rebutting the claim of the applicant for selection on the basis of reservation, relied upon the decision of the Hon'ble Supreme Court in the case of Post-Graduate Institute of Medical Education and Research etc. v. K.L.Narasimhan (supra).

20. Since the Regulations 1955 are not amended to consider the promotion to the I.A.S. cadre, the persons belonging to the reserved category separately from the officers of the other community, we cannot say that the Selection Committee should have considered the case of the applicant as a reserved category officer. Therefore, his contention cannot be accepted.

21. The learned counsel for the applicant in support of his contention relied upon the various decisions of the Hon'ble Supreme Court. The relief claimed in the O.A. is as regards the select list prepared by the Selection Committee dated 6.6.1997 and the manner in which the Selection Committee prepared the select list. We feel that those decisions are not necessary to reproduce or deal with herein as it only lengthens our order. This Tribunal cannot interfere with the decision of the Selection Committee. Since the Regulations 1955 have not been amended, the applicant cannot claim a separate treatment on the ground that he belonged to the SC community in the matter of selection and promotion to the I.A.S. cadre.

22. It is also contended by him that as on the date when the Selection Committee met and decided the eligibility of the officers, he was not served with any

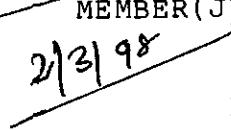
charge memo. or a charge sheet was pending before any court of law, his non-selection can be termed as arbitrary or illegal. It is the respondent No.3 in its counter has specifically stated that while furnishing the service particulars of the applicant had placed before the Selection Committee the contemplation of disciplinary proceedings against the applicant. This factor might have influenced the Selection Committee to treat the applicant as "unfit". We cannot sit in appeal over the decision of the Selection Committee.

23. In this view of the matter, we find no merits in the O.A. and the same is liable to be dismissed.

24. Accordingly the O.A. is dismissed, but in the circumstances, there will be no order as to costs.


(B.S. JAI PARAMESHWAR)

MEMBER (JUDICIAL)

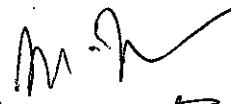

2/3/98

DATED THE 2nd MARCH, 1998.

DJ/


(H. RAJENDRA PRASAD)

MEMBER (ADMINISTRATIVE)


Deputy Registrar

O.A. 555/97.

To

1. The Secretary, U.P.S.C. Dholpur House,
New Delhi-1.
2. The Secretary, Ministry of Home,
Dept. of Personal Affairs,
Union of India, New Delhi.
3. The Chief Secretary, Govt. of A.P.
Secretariat, Hyderabad.
4. One copy to Mr. S. L. Chenna Kesava Rao, Advocate, CAT. Hyd.
5. One copy to Mr. N. R. Devraj, Sr. CGSC. CAT. Hyd.
6. One copy to Mr. P. Naveen Rao, ^{Spl. Counsel for A.P. Govt.,} ~~Advocate~~ CAT. Hyd.
7. One copy to Mr. C. Suryanarayana, Advocate, CAT. Hyd.
8. One copy to HBSJP. M(J) CAT. Hyd.
9. One copy to D. R. (A) CAT. Hyd.
10. One spare copy.

pvm

11/3/98
I Court

TYPED BY

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 M.Y. B.S. Jayaraman: M(O)

DATED: 2 - 3 - 1998

ORDER/JUDGMENT:

M.A./K.A./C.A.No.

in

O.A.No. 555/97

T.A.No. Q.W.R

Admitted and Interim directions
issued.

Allowed

Disposed of with direction

Dismissed.

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

pvm.

