

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A. NO.1666 of 1997.

DATE OF ORDER: 24-4-1998.

BETWEEN :

SRI MADAN LAL, IPS,
S/o Late Parsa Ram,
aged about 44 years,
Superintendent of Police,
S.C.R.B., A.P., Hyderabad. .. APPLICANT

A N D

1. Union of India, represented by its
Secretary, Department of Personnel &
Training, North Block, New Delhi.
2. Government of Andhra Pradesh,
Represented by Chief Secretary,
Secretariat Building,
Hyderabad. ... RESPONDENTS

Counsel for Applicant : Mr. K.Sudhakar Reddy
Counsel for Respondent No.1 : Mr. N.R.Devaraj, CGSC
Counsel for Respondent No.2 : Mr. Phaniraj for
Mr.P.Naveen Rao,
Spl.C. for Govt.of AP.

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 (J))

1. Heard Mr. K. Sudhakar Reddy, the learned
counsel for the applicant, Mr. N.R.Devaraj, the learned
Standing Counsel for respondent No.1 and Mr. Phaniraj for
Mr. P.Naveen Rao, the learned Standing Counsel for the
respondent No.2.

2. This is an application under Section 19 of the
Administrative Tribunals Act. The application was filed
on 15.12.1997.

3. The applicant is an I.P.S. Officer of Andhra
Pradesh State Cadre. He belongs to 1980 batch.

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4. The applicant submits that the Charge Memo. issued to him vide Proceedings No.GO Rt.3625 dated 10.6.1994 were dropped vide proceedings No. GO Rt 4189 dated 31.7.1997. He submits that he became eligible for consideration for promotion to the rank of DIG effective from 14.10.1991.

5. The Screening Committee met on 22.9.1997 to consider the case of the applicant and others. However, his case was not considered by the Screening Committee for want of time. The Screening Committee in its meeting held on 22.9.1997 considered the case of the IPS officers of 1983 batch who, according to the applicant, are juniors to him.

6. The applicant filed O.A.No.1326 of 1997 apprehending that the Screening Committee might not consider his case. In that O.A. the respondent No.2 herein produced a Memo. bearing No.1275/Sec/97-1 dated 6.10.97 stating that on 22.9.1997 DPC could not consider the case of the applicant for want of time and that the date and time of holding the next meeting of the Screening Committee is yet to be decided and that the case of the applicant would be considered in accordance with the guidelines issued by the Government of India.

7. On the basis of the said Memo. this Tribunal decided the O.A. directing the respondent No.2 herein to convene the meeting of the Screening Committee within six weeks from the date of disposal of the O.A.

8. In the meanwhile on 6.11.1997 the respondent No.2 issued a Charge Memo.as per Annexure-I. The Charge Memo. was served on the applicant on 10.11.1997. The Screening Committee considered the case of the applicant and in view of the pendency of the Charge Memo dated

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6.11.1997 placed its recommendations in a sealed cover.

9. Accordingly by letter dated 21.11.1997 the applicant was informed that the recommendations of the Screening Committee have been placed in a sealed cover.

10. The applicant has filed this O.A. to call for the records relating to the promotion of the applicant to the rank of DIG and declare the order of the Government communicated to him in Memo dated 21.11.1997 as arbitrary, illegal, mala fide and colourable exercise of power and further direct the respondent to consider the case of the applicant for promotion on the basis of the records as on 22.9.97 since his juniors were considered on that date.

11. The main contention of the applicant is that the Screening Committee which met on 22.9.1997 deliberately left out the case of the applicant and that issue of the charge sheet dated 6.11.1997 was a mala fide exercise of power by the respondent No.2 and that therefore, the respondent No.2 must be directed to consider the case of the applicant for promotion as on 22.9.1997.

12. The respondent No.2 has filed its counter stating that on 22.9.1997 the Screening Committee could not consider the case of the applicant for want of time; that the issue of the charge sheet dated 6.11.1997 was not mala fide; that in fact the irregularities noticed in the charge sheet came to light much earlier and the process of getting the allegations enquired into by an appropriate agency was under way; that the appropriate Agency after completing regular preliminary enquiry submitted its report to the Government on 19.4.1997 and the Government took its decision on 9.8.1997 to frame

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regular charges against the applicant; that after obtaining the required material for framing the charges, charges were framed on 6.11.1997; that the Tribunal while disposing of the O.A.No.1326/97 did not notice anything mala fide on the part of the respondent No.2; that the Tribunal directed it to convene a Screening Committee meeting within six weeks from the date of disposal of the O.A.; ^{and} that therefore, there was no mala fide intention either in not considering the case of the applicant for promotion on 22.9.1997 or in issuing the charge sheet dated 6.11.1997.

13. The case of the applicant has been considered in greater detail.

14. Though at the first sight it may appear that the issuance of the charge sheet was only to stall or obstruct the promotional prospects of the applicant, after going through the counter, it cannot be said so. The respondent No.2 has clearly stated that the irregularities were noticed much earlier and that the same were preliminarily investigated into by an appropriate Agency and that the said Agency submitted its report on 19.4.1997 to the Government which took a decision on 9.8.1997 to frame a regular charge. This averment of the respondent No.2 has not been controverted by the applicant.

15. Since the charge sheet dated 6.11.1997 is pending, the Screening Committee has properly placed its recommendations in a sealed cover. We cannot find any irregularity in the procedure adopted by the Screening Committee.

16. In that view of the matter, we are not inclined to hold that the respondent No.2 deliberately issued the

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charge sheet dated 6.11.1997 against the applicant.

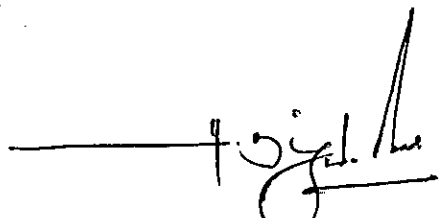
17. We cannot direct the Screening Committee to consider the case of the applicant as on 22.9.1997. Admittedly no mala fides have been attributed to the Screening Committee when it failed to consider the case of the applicant for want of time. Between 22.9.1997 and 11.11.1997 some developments took place and the respondent No.2 is duty bound to place those developments before the Screening Committee. We cannot find any fault in the action taken by the respondent No.2 in bringing to the notice of the Screening Committee which met on 11.11.1997 about the issuance of the charge sheet dated 6.11.1997 against the applicant.

18. The respondent No.2 may take necessary steps to conclude the enquiry into the charge sheet dated 6.11.1997 expeditiously. We have no doubt in our mind that the applicant will co-operate with the Inquiring Authority, for, it is to his own advantage.

19. Only with this observation, we find that there is no merit in this O.A. Accordingly we dispose of the O.A. with the above observation, leaving the parties to bear their own costs.



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



(H.RAJENDRA PRASAD)
MEMBER(ADMINISTRATIVE)

DATED THE 24th APRIL, 1998.

DJ/



Deputy Registrar

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O.A. 1666/97

To

1. The Secretary, Dept.of Personnel and Training, Union of India, North Block, New Delhi.
2. The Chief Secretary, Govt.of A.P. Secretariat Building, Hyderabad.
3. One copy to Mr.K.Sudhakar Reddy, Advocate, CAT.Hyd.
4. One copy to Mr.N.R.Devraj, Sr.CGSC. CAT.Hyd.
5. One copy to Mr.P.Naveen Rao, Spl.Counsel for A.P.Govt. CAT.Hyd.
6. One copy to HBSJP.M(J) CAT.Hyd.
7. One copy to DR(A) CAT.Hyd.
8. One spare copy.

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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 Mr. B. S. Jaiprakashwar: M(S).
DATED: 2nd 4 - 1998.

ORDER/JUDGMENT

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

in

O.A.No.

1666/97

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.

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