

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCHO.A. 860/99Date of decision : 6.8.99Between:

M. Satyanarayana Rao

.. Applicant

A N D

1. Union of India
 Secretary,
 Ministry of Home Affairs,
 North Block,
 New Delhi.

2. The Union Public Service
 Commission,
 Secretary,
 Dholpur House,
 New Delhi.

3. The Govt. of Andhra Pradesh,
 Chief Secretary,
 Secretariat,
 Hyderabad.

.. Respondents

Counsel for the Applicant : Mr. K. Prabhakar Reddy

Counsel for R.1 & 2 : Mr. V. Rajeshwar Rao

Counsel for R.3 ~~Mr.~~ : Mr. V.V. Anil KumarCoram:

Hon'ble Shri R. Rangarajan, Member (A)

Hon'ble Shri B.S. Jai Parameshwar, Member (J)

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O.A.860/99

Date of Decision:

O R D E R

(Per Hon'ble Shri B.S. Jai Parameshwar, Member (J))

Heard Mr. K. Prabhakar Rao ^{learned counsel} /for the Applicant

Mr. V. Rajeshwar Rao, learned counsel for Respondent No. 1 and 2 and Mr. V.V. Anil Kumar, learned counsel for Respondent No.3.

2. This is an application u/s. 19 of the Administrative Tribunals Act. Application was filed on 8-6-1999.

3. The Applicant was appointed as Deputy Superintendent of Police, category II, during November, 1979. Presently he is working as Superintendent of Police (non cadre) in the office of the D.G. & I.G of Police as vacancy reserve.

4. In the DPC held on 20-2-1996 for preparing the select list of IPS officers for the year 1995-96 the case of the Applicant was considered but was not enlisted. Being aggrieved the Applicant then approached this Tribunal in OA 451/96. The said OA was decided on 16-8-1996. This bench while disposing of the said OA made certain observations in para-35 of the order.

5. The Applicant felt that the Respondents may not take note of the observations made in the said para as the OA was dismissed, approached the Hon'ble Supreme Court in SLP No. 2141 of 97. The Hon'ble Supreme Court while deciding the SLP observed that the dismissal of the OA by the Tribunal would not stand in the way of the authorities in giving due consideration

to the observations contained in para-35 of the order. Even after disposal of the SLP there was some slackness in the respondents to consider the case of the Applicant, then the Applicant approached this Tribunal in OA 201/97. He felt that the respondent authorities may not consider his case because of the pendency of the said OA and therefore he sought permission to withdraw the said OA. Thus the said OA was disposed of as withdrawn on 12-11-1997.

6. The Applicant submits that he learnt that a review meeting was held on 5-2-1998 and in the said meeting the Applicant was categorised as Very Good and was placed as waitlist candidate and there was no further progress. Hence he approached the Hon. High Court of A.P. and filed WP No. 26484 of 1998. The Hon. High Court of AP disposed of the said WP directing the respondents to consider the recommendations of the select committee within a period of two months.

7. The Applicant submits that another review meeting was convened on 28-12-1998. He submits that his name was included in the said list and the said list was approved in the month of March, 1999. For filling up the existing vacancy with the Applicant, the respondents requested the State of AP to complete the formalities. The Applicant submits that the State of AP directed him to furnish two certificates. Accordingly he submitted two certificates.

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8. As there was no further progress in the matter he has approached this Tribunal by filing this OA.

9. He has relied upon the order in OA 558/97 (V.R.K. Mohan Rao vs. UOI decided on 26-2-98)

10. He has filed this OA for a direction to the Respondents to consider his case for appointment by promotion to the IPS cadre.

11. By an interim order dt. 8-6-1999 the respondents ^{were} was directed to not to fill up one of the ^{-ies which may be existing on that date} vacancy till the disposal of the OA.

12. The Respondents 1&2 have filed a reply. They submit that in accordance with the observations contained in OA 451/96 and also the directions of the Hon. Supreme Court in the SLP a review selection committee for consideration of the Applicant for inclusion in the select list for the year 1995-96 met on 5-2-1998; that the review selection committee on an overall assessment of the Applicant's service record upgraded his grading from Good to Very Good and a review select list was prepared on 22-2-96. They further submit that they did so with due regard to the observations made by the judicial fora. In the meanwhile the Applicant had approached the Hon'ble High Court of AP vide WP No.26484/98. The UPSC vide its letter dated 22-12-1998 approved the course of action suggested by the review selection committee in its meeting held on 5-2-1998 and decided to reconvene the meeting of review selection committee on 29-12-1998. The said review selection committee was convened for preparation of a revised select list for the year 1995-96 by enlarging its size from 5 to 6 and the consideration zone from 15 to 18. Accordingly the

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Review Selection Committee met on 29-12-1998 to redraw the select list for the year 1995-96. The Review Selection Committee recommended the inclusion of the name of the Applicant at Sr.No.6 in the revised select list for the year 1995-96. The UPSC vide their letter dt. 22-3-1999 approved the recommendations of the said review selection committee. The approval has been conveyed to Respondent No.3. They submit that the name of the Applicant was included at Sr.No.6 in the Review Selection list only to enable him to have another chance after crossing the age of 54 years. They submit that the Applicant has not acquired any vested right for appointment to IPS on the basis of inclusion of his name in the revised select list for the year 1995-96. They submit that as per the direction of Hon'ble High Court, Andhra Pradesh vide its order dt. 16-12-1998 in WP No. 33155/98 they have not taken any steps for preparing the select list for the year 1998.

13. The Respondent No.3, State of AP, has filed the reply stating that the select list for the year 1995-96 was prepared on 22-2-1996. A select list of 5 officers was prepared for 3 anticipated vacancies. After the select list was drawn one vacancy was caused due to the demise of Shri YSN Sarma on 28-2-1996. Hence one fortuitous vacancy in addition to the 3 anticipated vacancies was available to promote the 95-96 select list officers and one additional vacancy was utilised for promoting the 4th Officer in the list, viz. Sri K. Lakshman Mohan, to IPS. Therefore only one officer viz. ~~Sri VRK Mohan Rao~~ who was in the wait list was not promoted from the list of 1995-96.

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14. Consequent on the mid-term cadre review of the IPS cadre of AP three more posts were added to the promotion quota in the IPS cadre of AP vide notification dt. 25-3-1997 issued by the Govt. of India. They implemented the direction given in OA 558/97. They submit that the case of the Applicant was considered by the Review Selection Committee only to enable the Applicant to have one more chance for consideration to the next select list as he is otherwise eligible for the next select list under the provisions of Regulation 5(3) of IPS (Appointment by Promotion) Regulations. They submit that subsequent to the preparation of revised select list for the year 1995-96 further select list viz. for the years 1996-97 and 1998 have not been prepared for want of a valid seniority list.

15. The Respondent No.3 tries to distinguish the case of the Applicant from the case of VRK Mohan Rao saying that VRK Mohan Rao was included in the original select list for the year 1995-96 whereas the Applicant was included in the revised select list for the year 95-96 at Sr.No.6. They submit that the revised select list was prepared on 29-12-1998 for four vacancies. The Applicant has to be kept under Reserve as per the orders of the Tribunal in OA 451/96 only to the extent of enabling him to avail one more chance for consideration. It is further stated that if one vacancy that had arisen after preparation of the select list for the year 1995-96 was taken for preparing a Revised Select List then the vacancies that arose on 25-3-97 should also be taken into account for preparing a revised select list.

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They submit that in such cases the zone of consideration would get enlarged and more number of officers may come up for consideration.

16. They submit that the proposals for convening the Selection Committee meeting for preparation of 1999 select list for 14 vacancies have already been forwarded to the UPSC. Hence the contention of the Applicant that the conduct of the Selection Committee may deprive his appointment is not tenable in the light of the above submissions made.

17. These submissions of the respondents cannot be accepted. The Review Selection Committee considered the case of the Applicant for inclusion in the revised select list for the year 95-96 after enlarging the size of the list and the zone of considerations. This is clear from the affidavit filed by the respondents 1 and 2. When that is so, the contention that more number of officers are to be considered has no substance. The review selection committee has prepared revised select list for the year 1995-96 in accordance with the Regulations. In fact on 5-2-98 the review selection committee enlarged the size of the list under the zone of consideration to comply with the directions of this Tribunal in OA 451/96 and the directions contained in the SLP.

18. The Review Select list prepared on 29-12-1998 consisted all ^{the} officers who were dtd. included in the original select list/22-2-96 and the name of the Applicant ~~and~~ Sri VRK Rao.



were included under 'Reserve'. Shri VRK Rao was appointed to IPS cadre as per directions given in OA 558/97.

19. While deciding the OA 558/97 this Tribunal took note of the decision of the Hon.ble Supreme Court in the case of Nepal Singh v. Union of India reported in 1998(1) SCALE (SP) 7.

20. It is an admitted fact that presently the review select list for the year 95-96 is in force. In view of Rule 7(4) of the Regulations the said list has to be in force till the next select list is prepared. It is an admitted fact that the respondents have not prepared the subsequent select list for the year 96-97 and 98. The Respondent No.3 has submitted that they have sent proposals for convening DPC to consider the case of 14 officers for inclusion in the IPS cadre for the year 1999. In view of the decision of the Hon. Supreme Court cited above till the fresh select list is prepared by respondents 1 and 2 the review select list prepared for the year 95-96 has to be operated.

21. After preparing the original select list for the year 95-96 4 vacancies arose. One was due to the demise of YSN Sarma on 28-2-96. The other three vacancies arose on account of mid term cadre review. In fact VRK Rao applicant in OA 558/97 was considered in view of the mid term cadre review of the 975 strength in the State of AP.

22. As on today the applicant alone is in the review select list for the year 95-96 for appointment to the IPS cadre.


23. Learned counsel for the Applicant

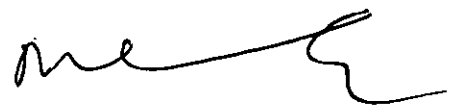
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submitted that he is fully covered by the observations made by this Bench in OA 558/97. His contention has some force. In the said decision we considered the life of ^{the} panel once prepared under the Rule 7(4) of the Regulations.

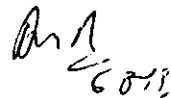
24. Considering all these facts and circumstances we are of the opinion that the Applicant shall be appointed to the IPS cadre on the basis of ~~the~~ ^{his} inclusion in the revised select^{list} for the year 95-96 which list was approved by the UPSC on 22-3-99. His appointment to the IPS cadre shall be made against the vacancy that was created in the promotion quota on account of mid term cadre review and also against the vacancy kept vacant due to the interim order dt. 8-6-99.

25. For the reasons stated above OA is allowed. No order as to costs.


(B.S. JAI PARAMESHWAR)
Member (J) 6.8.99


(R. RANGARAJAN)
Member (A)

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6.8.99