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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH
J A I P U R

DA NO. 595/95

Date of order: 9.9.96

Kapoor Chand Gupta : Applicant

Versus

Union of India and Others : Respondents

Miss Ashish Joshi, counsel for the applicant
Mr. S.S.Hasan, counsel for respondent No.1
Mr. K.N.Shrimal, counsel for respondent No.2
Mr. B.N.Purchit, counsel for respondent No.3
None for other respondents

CORAM:

HON'BLE SHRI GOPAL KRISHNA, VICE CHAIRMAN
HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)

O R D E R

(PER HON'BLE SHRI GOPAL KRISHNA, VICE CHAIRMAN)

This application by the applicant Shri Kapoor Chand Gupta under Section 19 of the Administrative Tribunals Act, 1985, is directed against the selection proceedings held in the month of January, 1995 for appointment by promotion to the Indian Administrative Service (for short 'IAS') from amongst the officers belonging to the Rajasthan State Civil Service. The recommendations and appointments made vide Notification dated 7.8.1995 of Shri Asutosh Gupta and Shri C.P.Vyas and vide Notification dated 13.12.1995 of Shri Amar Singh by promotion to IAS have also been assailed.

2. The contentions of the applicant are that he is an emergency recruit in the Rajasthan Administrative Service (for short 'RAS') of the year 1977. He was posted as an RAS Officer in 1978 and *C.Krishna* was notionally given seniority w.e.f. 1972. He

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earned promotions in the Senior Scale in 1985 and to the selection scale of RAS in the year 1988-89. The applicant fell within the eligibility zone for consideration ^{for} promotion to the IAS. It was in January, 1995 that a meeting of the selection committee for promotion to the IAS was held, the name of the applicant being within the field of consideration was considered but on 7.8.1995 a notification was issued by which two persons junior to the applicant namely Shri Asutosh Gupta and Shri C.P.Vyas were appointed to the IAS by promotion, where upon the applicant made representations to the concerned authorities but the representations did not evoke any response. The main contention of the applicant is that the applicant's name was not fairly and reasonably considered by the Selection Committee since an adverse material pertaining to the year 1975 and not relating to the applicant at all was placed before the Selection Committee in regard to the applicant when his name was being considered by the Selection Committee. It has been categorically stated by the applicant that an objective assessment of the entire service record of the applicant could be made if the penalty of 1975 which in fact pertained to some other person had been excluded from consideration.

3. On the other hand, the respondent No.3 (State of Rajasthan) has stated in the reply that the penalty of stoppage of one grade increment was erroneously ^{CAK} brought to the notice of the Selection Committee but

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it had no material effect as overall service record of all the officers within the zone of consideration was assessed in terms of Regulation 5(4) of the I.A.S. (Appointment by Promotion) Regulations, 1955. It is also contended by the respondent No.3 that there is no justification and ground for reviewing the selection proceedings since the Selection Committee had prepared the Select List by considering the entire service record of the candidates and if the penalty of 1975 is not even considered, the overall assessment of the applicant in comparison to those of persons already selected was not such as to categorise him as 'outstanding' or 'Very Good' by that High Powered Selection Committee. It is also stated that the applicant's case was fairly considered and he was not found meritorious in comparison to those already selected. The respondent No.2 (Union Public Service Commission) in his reply has stated that for making an overall relative assessment the Selection Committee which met on 23.1.1995 had examined the service record of all the eligible officers with special reference to the performance for the preceding five years. The applicant, it is stated, is not entitled for review of the case as the overall assessment was made by the Selection Committee with particular reference to the performance for five years preceding the crucial date i.e. 1.4.1994 for the 1994-95 Select List.

4. We have heard the learned counsel for the parties and have carefully gone through the records

Critique of the case.

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5. The learned counsel for respondent No.3 has placed before us a copy of the communication dated 2.4.1996 issued to the applicant informing him that the erroneous entry of stoppage of one grade increment relating to the year 1975 without cumulative effect against his name in the statement of penalties has been deleted and the Government of India as well as the Union Public Service Commission have also been intimated about this decision of the Government. It is an admitted fact that this irrelevant and extraneous material was placed before the members of the Selection Committee which had met in January, 1995 when the name of the applicant was being considered for appointment to the IAS by promotion. The Selection Committee has to consider the entire service record of all the candidates falling within the area of consideration for inclusion of their names in the Select List after classifying the eligible officers as 'Outstanding', 'Very Good' or 'Good' as the case may be. The learned counsel for respondent No.3 urged that since the applicant was graded merely as 'Good' and officers junior to him had earned better gradings, the applicant's name could not be included in the Select List. Even if the adverse material erroneously placed before the Selection Committee had been ignored from consideration, the overall grading of the applicant would not change. So far as the case of the applicant is concerned, it transpires ^{from} the record that his entire service record including an adverse material not relating to him had been erroneously considered by the Selection Committee, and as such we cannot say as to how far and how much it would have weighed with the Selection Committee in the matter of grading of the applicant. How to categorise

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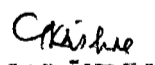
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in the light of relevant records and what norms to apply in making the assessment are exclusively the functions of the Selection Committee. We are of the view that the applicant's case for appointment to the IAS by promotion ought to be reviewed in the interest of justice in the circumstances of the present case, after the adverse material not pertaining to the applicant has been excluded from his overall service record.

6. In the result, we direct the respondents to review the proceedings of Selection Committee held on 23.1.1995 to consider the applicant's case for appointment to the IAS by promotion afresh as per rules, within a period of four months from the date of receipt of a copy of this order and if the applicant is adjudged suitable for promotion to the IAS he may be given appointment to the IAS by promotion w.e.f. the date from which any person junior to him has been appointed by promotion to the IAS.

7. This application is disposed of accordingly with no order as to costs.


(O.P. SHARMA)
MEMBER (A)


(GOPAL KRISHNA)
VICE CHAIRMAN