

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :::: GUWAHATI-5.

D.A. NO. 145 of 1997  
T.A. NO.

DATE OF DECISION 1.12.1997

Vihielie Sekhose

(PETITIONER(S))

Mr P.K. Goswami, Mr D.K. Mishra and  
Mr N. Sinha

ADVOCATE FOR THE  
PETITIONER (S)

VERSUS

Union of India and others

RESPONDENT (S)

Mr S. Ali, Sr. C.G.S.C.  
Mr C.T. Jamir, Government Advocate, Nagaland

ADVOCATE FOR THE  
RESPONDENT (S)

THE HON'BLE MR JUSTICE D.N. BARUAH, VICE-CHAIRMAN  
THE HON'BLE MR G.L. SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman

*DNB*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.145 of 1997

Date of decision: This the 1st day of December 1997

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Vihielie Sekhose,  
Deputy Commissioner,  
Kohima, Nagaland.

.....Applicant

By Advocate Mr P.K. Goswami, Mr D.K. Mishra and  
Mr N. Sinha.

- versus -

1. The Union of India, represented by the  
Secretary, Department of Personnel,  
Ministry of Personnel and Public Grievances,  
New Delhi.
2. The State of Nagaland, represented by the  
Chief Secretary to the Government of Nagaland,  
Kohima.
3. The Union Public Service Commission,  
Represented by the Secretary,  
Union Public Service Commission,  
New Delhi.
4. The Chairman,  
Union Public Service Commission,  
New Delhi.
5. The Selection Committee  
of Union Public Service Commission,  
Constituted for Nagaland State Cadre of I.A.S.  
(Represented through the Chief Secretary to the  
Government of Nagaland, Kohima).
6. The Commissioner and Secretary,  
Department of Personnel & Administrative Reforms,  
Government of Nagaland, Kohima. ....Respondents

By Advocate Mr S. Ali, Sr. C.G.S.C.  
Mr C.T. Jamir, Government Advocate, Nagaland.

.....

O R D E R

BARUAH.J. (V.C.)

The applicant has approached this Tribunal by filing the present application seeking certain directions. Facts for the purpose of disposal of this application are:

The applicant was a member of the Nagaland Civil Service. In the year 1996-97 a Selection Committee under regulation 3 of the Indian Administrative Service (Appointment by Promotion) Regulation, 1955 (for short the Regulation) for the purpose of selecting officers of Nagaland Civil Service (for short NCS) to the Indian Administrative Service (for short IAS) Cadre was constituted. There were two sittings of the said committee, i.e. on 19.2.1997 and 25.3.1997. In the said selection, after considering the records, the Selection Committee prepared a select list of seven persons. However, the applicant's name was not included in the said list of the Selection Committee. On the subsequent day, i.e. 26.3.1997, the approval of the State Government as well as the Central Government were sent to the 3rd respondent- The Union Public Service Commission (UPSC for short). The 3rd respondents approved the list on 28.3.1997. Thereafter, the Chief Secretary to the Government of Nagaland wrote Annexure 2 letter dated 5.4.1997 intimating that the State of Nagaland was disappointed for non-selection of the applicant. In the said letter the Chief Secretary wrote thus:

"No doubt, the Selection Committee had made the assessment on the basis of the available Annual Confidential Reports, the State Govt. is of the view that the ACRs of various officers which were initiated and reviewed by different officers may not always truly reflect the comparative suitabilities of officers, particularly for promotion to the premier service. It is felt that Shri V. Sekhose is the victim of such inconsistencies in the system of ACRs, as he is considered to be one of the more competent and effective administrative officers."

and thereby the Chief Secretary requested to review the case of the applicant by the 3rd respondent. Two days thereafter, the Chief

Minister wrote a D.O. letter dated 7.4.1997 to the 4th respondent reiterating the same views expressed by the Chief Secretary. By Annexure-4, yet another D.O. letter dated 9.6.1997 was sent by the Chief Minister to the 4th respondent enclosing therewith the letter of appreciation, which the Chief Minister kept in the record. By Annexure-5 letter dated 11.6.1997, the Secretary of the 3rd respondent informed the Chief Secretary of Nagaland expressing the inability to review the case of the applicant on the ground that after the Select List had been approved by the Commission under Regulation 7(1) of 'the Regulations' the Commission had become functus officio in respect of that Select List. Hence the present application.

2. The application was admitted on 3.7.1997. As an interim measure this Tribunal directed the respondents to keep one post vacant pending disposal of this application. The respondent Nos. 2 and 6 have filed written statement. Similarly, the respondent Nos. 3, 4 and 5 have also filed written statement.

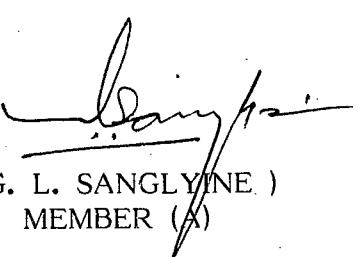
3. We have heard all. Mr P.K. Goswami, learned Sr. Counsel, assisted by Mr D.K. Mishra, appearing on behalf of the applicant, submits that Annexures 2, 3 and 4 letters by the Chief Secretary and Chief Minister has clearly indicated that the case of the applicant was not properly considered by the Selection Committee and the approval was also given by the UPSC on the basis of the selection as the entire records were not available. In fact, according to Mr Goswami, all the records of the applicant were not examined and considered, and therefore, there was lack of proper application of mind in considering the case of the applicant. This has been admitted in the written statement filed on behalf of respondent Nos. 2 and 6. According to the 3rd respondent they considered the case on whatever materials were available to them and after approval, when the request was made to reconsider the case of the applicant, the 3rd respondent expressed its inability saying they had become

functus officio. Mr Goswami has stressed that the applicant had to suffer because of non-inclusion of his name in the select list as his case could not be properly considered in view of the fact that the entire materials including his performances were not adequately acknowledged. According to Mr S. Ali, learned Sr. C.G.S.C. the 3rd respondent had no other alternative but to give approval on the basis of the material placed before it and so there was nothing wrong on the part of the 3rd respondent. Mr C.T. Jamir, learned Government Advocate, Nagaland, does not dispute the letters written by the Chief Secretary and the Chief Minister.

4. In view of the above we are of the opinion that the case of the applicant was not properly considered, to which the applicant was entitled. Therefore, for the ends of justice and fitness of things it is necessary for the UPSC to review the selection after taking into consideration of all the materials including the Annexures 2, 3 and 4 letters dated 5.4.1997, 7.4.1997 and 9.6.1997 respectively, and also the letter of appreciation enclosed with Annexure 4 letter of the Chief Minister.

5. We, therefore, dispose of this application with a direction to the 3rd respondent- The Union Public Service Commission, to review the case of the applicant. This must be done as early as possible, at any rate within a period of two months from the date of receipt of this order. We also direct the respondent Nos.2 and 6 to place all the materials relevant to the selection of the applicant before the UPSC within a period of three weeks from the date of receipt of this order.

6. The application is accordingly disposed of. However, in the facts and circumstances of the case we make no order as to costs.

  
( G. L. SANGLYINE )  
MEMBER (A)

  
( D. N. BARUAH )  
VICE-CHAIRMAN