

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

CIRCUIT SITTING AT INDORE

OA No.25/05

Indore this the 16th day of August, 2005.

C O R A M

HON'BLE MR.M.P.SINGH, VICE CHAIRMAN
HON'BLE MR.MADAN MOHAN, JUDICIAL MEMBER

Krishna Kumar Khare
S/o Shri U.S.Khare
Additional Collector
Indore.

Applicant

(Applicant in person)

Versus

1. The Union Public Service Commission
Dholpur House, New Delhi.

2. The Secretary
Ministry of Personnel and Training
Government of India
New Delhi.

3. The State of Madhya Pradesh
through Principal Secretary
General Administration Department
Vallabh Bhawan, Bhopal.

Respondents.

(By advocate Shri S.P.Singh)

O R D E R (oral)

By M.P.Singh, Vice Chairman

By filing this OA, the applicant has sought the following reliefs:

- (i) Direct respondent No.1 to call the meeting of Departmental Promotion Committee for promotion to the post of Indian Administrative Service (IAS) for the year 2003 and for 2004 independently.
applicant
2. The brief facts of the case are that/is a member of State Civil Service and working as Additional Collector w.e.f. 1.1.1993. He was granted super selection grade w.e.f. 1.1.99. He is eligible for consideration for promotion to IAS as per The Indian Administrative Service (Appointment by Promotion) Regulations, 1955. Regulation 5 of the aforesaid Regulations provides that each committee shall ordinarily meet every year and prepare a list of such members of the

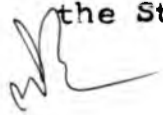


State Civil Service as are held by them to be suitable for promotion to the Service. The number of members of the State Civil Service to be included in the list shall be determined by the Central Government in consultation with the State Government concerned and shall not exceed the number of substantive vacancies as on the first day of January of the year in which the meeting is held, in the posts available for them under Rule 9 of the recruitment rules. The UPSC has not convened a meeting of the selection committee for preparing the select list for the year 2004 till now. Hence the applicant has approached the Tribunal seeking the relief as aforesaid.

3. UPSC - respondent No.1 - has filed reply and respondents 2 & 3 have not filed reply till now despite ample opportunities given to them. Learned counsel appearing for UPSC is present today in court. None of the counsel appearing for respondents 2 & 3 was present even on 26.4.05. None is present today and they have not cared to file reply till today. However, the UPSC has filed a reply ~~today~~² stating that in view of the orders of the Hon'ble High Court dated 18.1.2005 in Writ Petition No. 20151/03 being decided in favour of Shri V.S. Baghel, his name is to be considered for promotion to the IAS of Madhya Pradesh Cadre. In the circumstances, the Commission has taken a decision to reconvene the SCM held on 19.12.2003 to prepare the IAS Select List of MP cadre for the year 2003 in the first instance to avoid any further delay. After the select lists of 2003 is prepared and acted upon, the select lists for subsequent year would be prepared thereafter. The State Government has been requested to furnish the current status regarding integrity certificate, disciplinary proceedings, adverse remarks, penalties, court

cases etc. vide letter dated 14.2.2005. The State Government vide letter dated 14.3.2005 have since forwarded the deficient documents called for by the Commission and the Selection Committee Meeting has been held on 9.4.2005.


4. Heard learned counsel for respondent No.1 and the applicant who is present in the court. The applicant has submitted that he has approached this Tribunal only for a direction that the selection committee for the year 2004 should be expedited. He has also submitted that the meeting of the Selection Committee for the year 2003 has already been held by the UPSC and, therefore, there is no reason to delay the holding of the meeting of the selection committee for the year 2004. He has drawn our attention to the reply filed by the State Government in similar OA No.63/2005 in which the State Government has categorically stated that they have already forwarded the proposal to the UPSC for convening the Selection Committee meeting for preparation of the Select Lists for 2003 and 2004 on 29.10.2003 and 14.9.2004 respectively. According to the State Government, convening of the meeting is the sole jurisdiction of the UPSC, hence action in the matter is to be taken by the Commission and as such a detailed reply on the points raised by the applicant in that OA is to be submitted by the Commission. The State Government has already complied with the part of the OA. The applicant has submitted that since the State Government has already submitted all the documents and the Central Government has also decided the number of vacancies for the year 2004 in consultation with the State of M.P., the action is required to be taken by



the UPSC only. He has also submitted that a direction be given to UPSC not to wait for holding of the meeting of 2005 along with 2004 and thus delaying the matter of finalising the selection committee meeting of 2004. He has ^{further} also submitted that a direction be given to the UPSC to hold the meeting for the year 2004 independently as early as possible so that the interest of the applicants and similarly placed State Civil Service Officers is adequately protected. While making submission, the applicant has also drawn our attention to the judgement of the Hon'ble Supreme Court in the case of Union of India and others Vs. N.R. Banerjee and others - AIR 1997 SC 3761. In para 10 of the judgement, the Supreme Court has held as under:

"10. D.P.C. in the present case was directed to consider the cases of all the eligible candidates within the zone of consideration so that there will not be any heart burning among the eligible persons whose claims have been withheld for consideration for promotion to the higher post. In S.K. Rizvi V. Union of India, 1993 Supp (3) SCC 575, the mandatory duty of the preparation of the select list of the officers for promotion to the All India Services has been indicated in para 35 of the judgement at page 605 thus: "We, therefore, hold that preparation of the select list every year is mandatory. It would subserve the object of the Act and the rules and afford an equal opportunity to the promotee officers to reach higher echelons of the service. The dereliction of the statutory duty must satisfactorily be accounted for by the State Government concerned and this Court takes serious note of wanton infraction."

5. On the other hand, learned counsel for UPSC Shri S.P. Singh submitted that there was a delay in holding the meeting of the selection committee for the year 2003 because of the writ petition filed by one V.K. Singh. Since that WP has been disposed of by the High Court on 18.1.2005, the meeting of the selection committee for preparing the select list of 2003 has already been held by the UPSC, ^{on} ~~in~~ ~~December~~ ~~2003~~. He has submitted that the UPSC has already written a letter to the State Government to send the requisite documents required for holding the selection committee for the year 2004. He has further submitted that as soon as the required documents are received from the State Government and a decision to



determine the number of vacancies in the select list of 2004 is taken by the DoPT, the meeting of the selection committee will be convened by them at an earliest possible date.

6. We have given our careful consideration to the rival contentions and we find that the only direction required to be given to the UPSC is whether the selection committee meeting to prepare the select list for the year 2004 could be held immediately and independently. We find from the reply filed by the State Government in another OA No.63/05 involving similar issue that the requisite documents have already been sent by them on 14th September 2004. We also find that respondent No.2 vide letter dated 3rd August 2005 has already determined the number of vacancies for preparing the selection committee meeting for the year 2004. According to the aforesaid letter, the DoPT has decided that during the year 2004, recruitment by promotion to IAS Madhya Pradesh Cadre from among members of the State Civil Service of M.P. may be made upto 5 (five) posts in all. Since the State Government has already sent the required documents and the Central Government in consultation with them have already determined the vacancies for preparing the select list for the year 2004, the onus of holding the selection committee meeting for preparing the select list for the year 2004 lies with UPSC alone. In the case of S.K.Rizvi V.Union of India, 1993 Supp (3) SCC 575, it has been held by the Apex Court that preparation of select list every year is mandatory.

7. In the above conspectus of the facts and circumstances, we direct the UPSC to convene a meeting of the selection committee for preparing the select list for the year 2004 immediately and independently and not to wait for holding the selection committee meeting for the year 2005 as apprehended by the applicant. The State Government is also



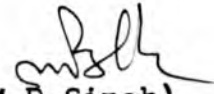
directed to send all required/deficient documents, if not already sent by them, within a period of four weeks from the date of receipt of a copy of this order.

8. With the directions as above, the OA is disposed of.

No order as to costs.



(Madan Mohan)
Judicial Member



(M.P. Singh)
Vice Chairman

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