

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.1 of 2004

(Bhopal), this the 3rd day of February, 2005

Hon'ble Mr. M.P.Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Jayant Patel, S/o Shri V.N.Patel
(Deceased through Legal Representative)

1. Smt. Premila Patel wife of
Late Shri Jayant Patel aged 41 years.
2. Siddharth Sanat Patel, S/o Late
Shri Jayant Patel aged about 20 years.
3. Swetlana Raishree Patel, D/o Late
Shri Jayant Patel aged about 17 years,

APPLICANTS

(By Advocate - Shri M.K. Verma)

VERSUS

1. Union of India, through Secretary,
Department of Personnel and Training,
North Block, New Delhi.

2. Union Public Services Commission,
Through Secretary, Dholpur House,
New Delhi.

3. State of M.P.through Principal Secretary,
General Administrative Department
Room No.5(IAS Establishment),
Vallabh Bhawan, Bhopal(MP)

4. Smt. Sashi Karnavat,
Additional Collector,
Jhabua(M.P.)

RESPONDENTS

(By Advocate - Shri S.A.Dharmadhikari for respondents No. 1 & 2
Shri Om Namdeo for respondent No.3
None for respondent No.4)

O R D E R

By M.P. Singh, Vice Chairman -

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

"8.1to direct the respondents to consider the
name of applicant for the vacancies of 2002 to be filled
by D.P.C. in the year 2003 taking seniority positions as
available on 1.1.2003, in the interest of justice.

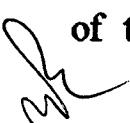
8.2 to hold the action on part of respondents
in the interest of justice.

8.3 to direct the respondents to recast the
zone of consideration for the vacancies of 2002 to be
filled by D.P.C. in the year 2003, and to include the
name of applicant at Sr.No.18th in the zone of
consideration in the interest of justice."



2. The brief facts of the case are that this Original Application was filed by Shri Jayant Patel claiming the aforementioned reliefs. However, during the course of pendency of this Original Application said Shri Jayant Patel has expired and in his place his legal representatives have come on record. The deceased Jayant Patel was a Member of the State Civil Service and was appointed as a Deputy Collector on 15.7.1978. He had been retired from the said service in public interest vide order dated 20.3.2003. He had preferred a writ petition against the order of compulsory retirement and the said writ petition has been admitted in the Hon'ble High Court of Madhya Pradesh and the matter is subjudiced. As per Regulation 5(1) of Indian Administrative Service (Appointment by Promotion) Regulations, 1955 (hereinafter referred to as the 'Promotion Regulations') the names of the officers of the State Civil Service are required to be considered for induction to the IAS. According to him, there were six vacancies as on 1.1.2003 as determined by the Central Government in consultation with the State Government. The selection committee was required to hold a meeting to consider the names of eligible officers who were in the zone of consideration. The deceased Jayant Patel was otherwise eligible to be considered for induction to the IAS as he was holding the substantive post of Deputy Collector continuously for the last 8 years and was also below the age of 54 years. As per the Promotion Regulations, three times the number of vacancies i.e. 18 persons of the State Civil Service were required to be considered for promotion and Shri Jayant Patel was at 18th position. However, the department has arbitrarily ignored the name of Shri Jayant Patel and they have included his junior Smt. Shashi Karnavat, respondent no.4 in the zone of consideration at serial no.18 in place of the deceased Jayant Patel. Hence this Original Application.

3. The respondent-UPSC in their reply have stated that as per provisions made in the All India Services Act, 1951 separate Recruitment Rules have been framed for the IAS/IPS/IFS. In pursuance of these Rules, the Promotion Regulations have been made. In accordance with the provisions of the said regulations, the Selection Committee presided over by the



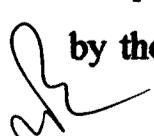
Chairman/Member of the Union Public Service Commission, makes selection of State Civil Service (for short 'SCS') officers for promotion to the Indian Administrative Service. A meeting of the selection committee was scheduled on 19th December, 2003 to prepare the Select List of 2003 for promotion to IAS of Madhya Pradesh cadre. The Government of India, Department of Personnel & Training had determined six vacancies for the year 2003 and the zone of consideration was 18. The selection committee observed that certain clarifications were required from the Govt. of India (DOPT) regarding the eligibility of certain officers who had been transferred to the State of Chhattisgarh under the State Reorganization Act. As the DOPT had not taken a final decision on the matter, the selection committee decided to adjourn the meeting to be reconvened at an appropriate time. As such, the selection committee did not transact any business and the Select List of 2003 has not yet been prepared. According to the Regulations, the selection committee is required to be met in the year 2004 and this committee would also prepare the Select List of 2003. As such while preparing the year wise Select Lists, the procedure adopted is that the crucial date for ascertaining the eligibility of the officers is taken as the 1st of January of the Select list year and the notional date for the Selection Committee Meeting for earlier Select List is taken as 31st December of the Select List year. Thus, while eligibility is reckoned as on 1st of January, the officers who are available for consideration on the 31st of December only can be considered. As such the officers who have retired/expired in the meanwhile and are thus not available would not be considered. This procedure is in accordance with the Govt. of India's instructions. From the above clarification, made by the Govt. of India that the officers should be eligible and available on the notional date of the Selection Committee meeting i. e. the last day of the year for which the Select List is being prepared for consideration by the Selection Committee. Since Shri Jayant Patel, the deceased SCS officer, has been compulsorily retired from the SCS w.e.f. 20.3.2003. He was, therefore, not available for consideration on the due date i.e. 31st December, 2003. Therefore, in terms of the clarification in the matter provided by the Govt. of India, Department



of Personnel and Training it may be observed that deceased Shri Jayant Patel, SCS officer is not eligible for consideration by the Selection Committee when it meets next. The respondent-State Government have also filed their parawise reply on the similar lines. They have also explained in detail the reasons as to why the Selection Committee could not meet in the year 2003.

4. Heard the learned counsel of both the parties and perused the records carefully.

5. The admitted facts of the case are that a selection committee meeting was to be convened for preparing the select list for the year 2003 of IAS of Madhya Pradesh cadre. As per Regulation 5(1) of the Promotion Regulations, each committee shall ordinarily meet every year and propose 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 1st 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. Shri Jayant Patel was available on 1st January, 2003. There were six vacancies and 18 persons were in the zone of consideration. The position of Shri Jayant Patel was at 18. However, the meeting of the Selection Committee could not be held during the year 2003 because of certain clarifications sought by the Commission from the Government. The clarifications were sought with regard to certain officers who were provisionally allocated to the State of Chhattisgarh and were still working in the State of Madhya Pradesh. As per the rules all the substantive vacancies are taken into account as on 1st January of the year. However, the persons should be available for consideration on the due date i.e 31st December 2003. It is not in dispute that Shri Jayant Patel was not in service and was compulsorily retired on 20.3.2003 and, therefore, he could not be considered by the Selection Committee for promotion to the IAS. Even if we assume



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hypothetically that he could be considered and empanelled for promotion to the IAS, he could not have been appointed to the IAS as he was not available for appointment after 20.3.2003. The procedure for preparing the select list for promotion to the IAS is different from that of the panel prepared for promotion through the DPC of the Central Services officers. After the select list is prepared by the Selection Committee, it is sent to the State Government as well as Department of Personnel & Training for obtaining their comments/observations. It is only after the State Government and the Union Government have sent their comments/observations to the UPSC, the select list is finally considered and approved by the commission. That exercise itself takes sufficient time and even hypothetically the applicant could be placed in the select list, he would not have been available for appointment to the IAS, as he was by that time compulsorily retired. Shri Jayant Patel has since expired on 18.6.2004. Unless an SCS officer is appointed to the IAS, he cannot get any benefit of the Service. Since Shri Jayant Patel could not be appointed to the IAS, his legal representatives are not entitled to get any benefits.

6. In the result, for the reasons stated above, this Original Application is devoid of any merit and is accordingly dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

मुख्यमंत्री से ओ/न्या....., जबलपुर, दि.....
प्रतिनिधि अवधि धितः—
(1) सचिव, उच्च व्यापालय नाय एवं विधायिका, जबलपुर
(2) अधेकार सी/शीली, यह के काउन्सिल
(3) प्रदेशी विधायिका, यह के काउन्सिल
(4) विधायिका, राज्य पार्लियमेंट, न्या एवं विधायिका, यह
सचिवा एवं अधेकार काउन्सिल, के

m.k. verma DND
Smt. Dharmashila
ans. dean DSC
DR

Issued
On 14-2-09