

Central Administrative Tribunal, Jabalpur Bench, Jabalpur

Original Application No.348/ 2003

Jabalpur, this the 17th day of December, 2004

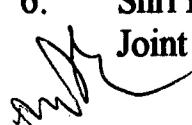
**Hon'ble Shri M.P.Singh, Vice Chairman
Hon'ble Shri Madan Mohan , Judicial Member**

**Raj Kumar Pathak,
Aged about 52 years,
S/o late G.S.Pathak,
Director Estate & Dy.Secretary,
Govt. of M.P., In the Home Department,
R/o DN-II-16, Char Imli,
Bhopal.**

**(By Advocate – Shri Vipin Dubey on behalf of Shri Rajendra Tiwari,
Sr.Advocate)**

Versus

1. Union of India,
Through the Secretary,
Ministry of Personnel & Training,
Public Grievances & Pensions, Lok Nayak
Bhawan, Khan Market, New Delhi
2. The State of M.P.
through the Principal Secretary
to the department of General
Administration, Bhopal.
3. Union Public Service Commission,
Dhoulpur House, Shahjahanbad,
New Delhi, through its Secretary.
4. Shri M.S.Bhilala, IAS,
Additional Collector, Ujjain.
5. Shri Ashok Kumar Rai, IAS,
General Manager, Food & Civil
Supplies Corporation, Bhopal.
6. Shri Raja Ram Batham, IAS,
Joint Collector, Mandsour,M.P.



7. Shri Ram Kishor Gupta,
IAS, CEO., Indore Development
Authority, Indore.

(By Advocate – Shri S.P.Singh)

ORDER

By M.P.Singh, Vice Chairman –

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

“8.2to issue an order commanding the respondents to hold a review Screening Committee to consider the better claim of the petitioner as against the respondent no.4 and 5 for the year of 2001 and as also against the respondent no.6 for the year 2002.

8.3to command the respondents to consider the case of the petitioner as against the respondent no.7 as well, or in the alternative the petitioner prays that the selection and the notification issued in favour of the respondent no.4 to 7 be quashed and they be reverted to their position as State Civil Services Officers.

8.4to command the respondents to induct the petitioner in the IAS cadre in case the review DPC applied the same principles honestly and fairly and finds him fit to be incorporated in the list of selectees for the year 2001 or 2002. In that event he be given all consequential benefits, from the date the wrong persons were incorporated in the list of selected candidates or were notified.”

2. The brief facts of the case are that the applicant is a State Civil Service (for short ‘SCS’) officer, who joined as Deputy Collector on 1st July, 1981. Thereafter he has worked in various capacities and from 1.1.2001 to August 2002 he was Director of Public Administration. From August 2002 he continues to be as Director, Estate and Ex-officio Dy. Secretary, Home. He was granted the senior scale on 1.1.19881; Selection grade on 1.4.1992; and Senior Selection Grade on 1.1.1999. According to him, one Shri D.C.Pandey has filed O.A.No.759/2001 before this Tribunal seeking direction to consider



his promotion to the IAS in spite of the fact that he has been provisionally allocated to the State of Chhattisgarh. The applicant has further alleged that respondents 4 to 6 are not even given the Senior Selection Grade and the persons who were not considered to be worth giving of Senior Selection Grade have been inducted into the Indian Administrative Service (for short 'IAS'). As far as respondent no.6 is concerned, he has not been given even the integrity certificate by the State Government and with regard to respondent no.7 a charge sheet has been issued against him. The applicant has contended that as per his seniority he would have been selected in 2001 and in any case he should have been selected in the hst of 2002 but he has not been selected. He has given representation and his representation has not been considered at all. Hence this OA.

3. In this case reply has been filed by the UPSC, which is the main contesting party. The respondent-UPSC in their reply have stated that as per the provisions of the IAS (Appointment by Promotion) Regulations,1955 (hereinafter referred to as 'the Promotion Regulations) as amended on 25.7.2000 the yearwise select lists of 2001 and 2002 were required to be prepared for the vacancies determined by the Govt. of India. Thus a Selection Committee meeting was held on 16th December, 2002 to prepare the year-wise select lists of 2001 and 2002 for promotion of SCS officers to the IAS of MP cadre. The Govt. of India, Department of Personnel & Training determined 8 vacancies in the promotion quota for the year 2001 and 6 vacancies for the year 2002. The name of the applicant was considered at serial no.12 in the eligibility list, and on an overall assessment of his service records, the Selection Committee graded him as 'very good'. The Selection Committee also graded respondents 4 to 6 as 'very good'. Since respondents 4 to 6 were senior to the applicant and there were sufficient number of vacancies vis-à-vis their position in the zone of consideration, their names were included in the select list of 2001 in accordance with Regulation 5(5)

of the Promotion Regulations. The name of the applicant could, however, not be included in the select list of 2001 due to statutory limit on the size of the select list. Respondent no.7 had been graded as 'outstanding' by the selection committee on the basis of his service records and accordingly his name was included at serial no.3 in the select list of 2001. Two more officers who were senior to both respondent no.7 and the applicant were graded as 'outstanding' by the Selection Committee and were, therefore, included in the Select List of 2001 at serial no.1 and 2 respectively as per the provisions of Regulation 5 ibid. The respondent-UPSC have further submitted that during the year 2002, the zone of consideration comprised of 18 officers for the 6 vacancies determined by the Govt. of India and the name of the applicant was considered by the Selection Committee at serial no.8. On an over all relative assessment of his service records as furnished by the State Government, the Committee assessed the applicant as 'very good'. On the basis of this assessment his name could not be included in the Select List of 2002 due to the statutory limit on the size of the Select List as officers who were senior to the applicant with equal/better grading only were included in the Select List as per the provisions of Regulation 5 ibid.

4. The respondent-UPSC have also contended that one Shri V.S.Baghel whose name was included at serial no.17 in the eligibility list of 2002 had been allocated the State of Chhattisgarh vide Govt. of India's notification consequent upon the bifurcation of the State of Madhya Pradesh. Shri Baghel, however, challenged this allocation order before the M.P. State Administrative Tribunal by filing O.A.No.2786/2002. The Tribunal vide interim order dated 23.9.2002 directed that the impugned cadre allocation order shall remain stayed in so far as it relates to the applicant and that the officer shall not be relieved from the State of Madhya Pradesh. Accordingly, the State Government included his name in the eligibility list of 2002 and the Selection Committee considered him along with 17 other officers of

the State of Madhya Pradesh. After the Selection Committee meeting, the Commission observed that the Tribunal vide order dated 23.9.02 had only stayed the cadre allocation orders and had not quashed the same. As such a consideration of Shri Baghel impinged upon the right of consideration of another State Civil Service Officer of Madhya Pradesh. The Commission thus decided, in consultation with Govt. of India (DOP&T) to reconvene the Selection Committee meeting to consider one more SCS officer of the State of Madhya Pradesh and to treat the inclusion of the name of Shri Baghel in the eligibility list in addition to the normal zone of 18 officers (for 6 vacancies). In the meantime this Tribunal vide interim order dated 24.1.2003 in OA 759/01 filed by Shri D.C.Pandey directed the respondents to consider Shri Pandey subject to final outcome of the OA. Shri Pandey has also been allocated the State of Chhattisgarh but had been continuing to serve in the State of Madhya Pradesh on Court orders. Accordingly, the Commission decided to consider the name of Shri Pandey also and in addition to the normal zone for the year 2001. Thus, the Selection Committee was reconvened on 2.4.2003 to consider the name of Shri D.C.Pandey for the year 2001 in addition to the normal zone and the name of Shri Kamta Prasad Rahi for the year 2002 treating the inclusion of the name of Shri V.S.Baghel in the eligibility list in addition to the normal zone as both these officers were considered on the basis of court orders. The reconvened Selection Committee Meeting on an overall assessment of the records of these officers did not recommend any change in its earlier recommendations. The respondent-UPSC have further averred that the status of the case before the MPAT and the validity of the interim orders after its winding up is not known to them. They have further contended that the Selection Committee undertakes the detailed exercise with a view to ensuring objectivity, equity and fair play in the selection. Regulation 5(4) of the Promotion Regulations prescribes that the Selection Committee will classify the officers into four different categories i.e. 'outstanding', 'very good', 'good', and 'unfit' as the

case may be on an overall relative assessment of the service records. The Selection Committee manned and presided over by competent and able members, devise uniform and consistent norms and yardsticks for evaluation of the ACRs and these are uniformly applied to all States/ Cadres. The Selection Committee as per the provisions of the Promotion Regulations, presided over by the Chairman or a Member of the UPSC, who have got adequate expertise in the field. The applicant in his contention is substituting his own judgment to that of statutorily set up Selection Committee which consists of very high ranking and responsible officers. The respondent-UPSC in their reply have relied on various decisions of the Hon'ble Supreme Court and have stated that the assessments made by the Selection Committee in a just and equitous manner is not open to challenge by any individual and the present OA being devoid of merit is liable to be dismissed.

5. We have heard the learned counsel for the parties and carefully perused the pleadings available on record. We have also perused the records of the applicant as well as private-respondents.

6. We have gone through the ACR dossiers of the applicant as well as of the private respondents Nos. 4 to 7. We find that the confidential reports of the applicant are not comparable to that of private respondent no.7, who is junior to the applicant and has been assessed as 'outstanding' by the Selection Committee for the select list of 2001. The private-respondent no. 7 has definitely better record than that of the applicant as he has been consistently rated as 'outstanding' during the relevant years whereas the applicant has not been given consistently 'outstanding' reports during the relevant period. As regard the other private respondents i.e. 4 to 6 are concerned, they are admittedly senior to the applicant and have been graded as 'very good'/'outstanding' during the relevant period by the reviewing/accepting authority. Therefore, the selection committee has



rightly graded them as 'very good'. The other allegation made by the applicant that Shri Bhilala was charge-sheeted and the integrity certificate was not granted by the State Govt. is not correct and is rejected. We find from the file relating to the selection proceedings for the years 2001 and 2002 that though a disciplinary case was pending against Shri Bhilala but later on said Shri Bhilala was exonerated of the charges leveled against him and the State Govt. has also issued the integrity certificate in his case. We are therefore, of the considered view that no illegality has been committed by the selection committee while making assessment of the private-respondents and also for their inclusion in the select lists for the years 2001 and 2002. The contention of the applicant that the private respondent no.7 does not have unblemished record is also wrong, as the applicant has not substantiated this allegation by any documentary proof and on the perusal of the record of the selection committee, we do not find any adverse ^{note is} against the integrity and character of respondent no.7. In this view of the matter, we do not find any merit in this OA and the same is accordingly liable to be dismissed.

7. In the result, for the reasons stated above, the O.A. is dismissed, however, without any order as to costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

rkv

मृत्युकर्ता राम और/ज्ञा.....जबलपुर, दि.....

प्रतिलिपि द्वारा दिता:-

- (1) सचिव, उच्च न्यायालय वर्ष 2002 में दिया गया, जबलपुर
- (2) आकेदक श्री/श्रीमती/द्वा. द्वारा दिया गया
- (3) प्रत्यार्थी श्री/श्रीमती/द्वा. द्वारा दिया गया
- (4) ग्रामपाल, कोपारा, जबलपुर उत्तराखण्ड
सूचना एवं आवश्यक कार्रवाई देता

R-Tiwari PR 02v JBP
S.P.Singh 02v JBP
Sanjay Yadav 02v JBP
उपर रजिस्टर

Issued
On 22.12.04