

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 656 of 2000

Jabalpur, this the 12th day of March, 2004

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

G.D. Lakhani, S/o. Shri
B.S. Lakhani, aged 53 years,
presently posted as Assistant
Inspector General of Police,
Ujjain, Dist. Ujjain (M.P.).

... Applicant

(By Advocate - Shri Manoj Sharma)

V e r s u s

1. Union of India, through
the Secretary, Ministry of
Home Affairs, New Delhi.

2. State of Madhya Pradesh,
Through Principal Secretary,
Home Department, Govt. of MP,
Bhopal.

3. Union Public Service Commission,
through its Secretary, Dholpur House,
New Delhi.

... Respondents

(By Advocate - Shri Harshit Patel on behalf of Shri S.C.
Sharma on behalf of the respondents Nos. 1 and
3, and Shri Om Namdeo for the respondent No.2)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has
sought the following main reliefs :

"8.2 to direct the respondents non-applicants to
issue order of promotion of the applicant to IPS
immediately without further loss of time.

8.3 to direct the respondents to give all
consequential benefits to the applicant relating to
seniority, pay etc. w.e.f. due date over above his
junior."

2. The brief facts of the case are that the applicant was
a member of State Police Service. He was appointed directly
to the State Police Service on 15th June, 1981 as Deputy
Superintendent of Police. He has been considered for

promotion to Indian Police Service under the IPS (Appointment by Promotion) Regulations, 1955. The applicant was earlier considered by the selection committee met on 18th March, 1996, 21st March, 1997 and 30th November, 1998 to prepare the select list of IPS cadre of Madhya Pradesh. On the basis of overall relative assessment of the service records of the applicant, all the three selection committees assessed him as "Very Good". However the applicant could not be included in the respective select lists due to statutory limit on the size of the select lists. The applicant was again considered by the selection committee which met on 4.8.1999 to prepare the select list of 1999. The applicant was considered at serial No. 4 of the eligibility list. On the basis of overall relative assessment of his service records the selection committee again assessed him as "Very Good". His name was included in Selection list of 1999 at serial No. 3. As the State Government had withheld the integrity certificate of the applicant, his name was included in the select list provisionally subject to grant of integrity certificate by the State Government in terms of provision to regulation 5(5). The select list was approved by the Commission vide their letter dated 14.1.2000. As per the provision of Regulation 7(4) of IPS (Appointment by Promotion) Regulations, 1955, the name of the applicant can be made unconditional in the select list if the proposal from the State Government is received during the period the select list remains in force. The select list remains in force till 31st December of the year or upto 60 days from the date of approval of the Select List by the Commission, whichever is later. The select list of 1999 which was approved by the Commission on 14.1.2000 ceased to be in force w.e.f. 14.3.2000. As the integrity certificate of the applicant was furnished by the State Government in May, 2000 i.e. after the expiry of the select list.

the applicant could not be made unconditional by the Commission due to statutory provisions of IPS Promotion Regulations as applicable to the select list of 1999. Since the applicant's junior who was placed in the select list at serial No. 4 had been promoted alongwith his two senior persons who have been empanelled in the same select list, ^{they} were appointed on 15th February, 2000. As the validity of the select list ^{was} expired and the State Government had submitted the integrity certificate only after the select list came to be invalid, the applicant could not be appointed on the basis of the select list of 1999. Aggrieved by this he has filed this Original Application claiming the aforesaid reliefs.

3. Heard the learned counsel for the parties and perused the records carefully.

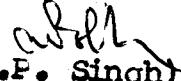
4. The learned counsel for the applicant has submitted that the applicant was issued a charge sheet on 6.12.1999 and he was exonerated of the charges on 10.4.2000. The State Government has issued the integrity certificate on 10th May, 2000. However the applicant has been inducted into the Indian Police Service vide order dated 19th January, 2001 alongwith five other persons who were placed in the select list of the subsequent year. Thus the applicant has been denied his seniority and other consequential benefits.

5. On the other hand the learned counsel for the respondents has stated that since the applicant was charge sheeted he could not be inducted to the IPS alongwith the other three persons who were selected with him and included in the select list of 1999. The integrity certificate was given in May, 2000 and by that time the validity of the select list ^{had} _{was} expired. He therefore could not be appointed.

6. We have given careful consideration to the rival contentions made on behalf of the parties. We find that the ^{included &} applicant was placed in the select list prepared by the Union Public Service Commission for the IPS cadre of Madhya Pradesh for the year 1999. His name was placed provisionally because the integrity certificate in respect of the applicant was not issued by the State Government. The applicant has been charge sheeted in December, 1999 and has been exonerated in April, 2000. The validity of the select list has also expired in March, 2000. Since the applicant has been exonerated of the charges levelled against him he is entitled for all the benefits including seniority and other consequential benefits which are given to his junior one Shri A.S. Choudhary who has been inducted in the IPS vide order dated 15.2.2000 (Annexure A-4). If the charges were not levelled against the applicant he would have been appointed alongwith other persons included in the select list of 1999 vide order dated 15.2.2000.

7. In the circumstances, the Original Application is allowed and the respondents are directed to review the matter and appoint the applicant from the date his junior Shri A.S. Choudhary has been appointed and grant him all consequential benefits including seniority from that date within a period of four months from the date of receipt of copy of this order. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

"SA"

Answered
M/6/3/04

M. Sharma
SC. Sharma
on Nameless