

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 776/of 1999

Jabalpur, this the 12th day of February, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. G. Shanthappa, Judicial Member

D. S. Rai, I.A.S.
S/o Late Shri B.L. Rai,
aged about 50 years,
Collector Sihore,
Sihore (M.P.)

APPLICANT

(By Advocate - Shri S. Paul)

VERSUS

1. Union of India
through its Secretary,
Ministry of Personnel, Public
Grievances and Pensions,
Department of Personnel and
Training, North Block,
New Delhi.
2. Union Public Service Commission,
through its Chairman,
New Delhi
3. State of Madhya Pradesh
through its General Administration
Department, Mantralaya, Bhopal
4. B.K. Ramole, I.A.S.,
through General Administration
Department, Mantralaya,
Bhopal.
5. Awadhesh Narayan Tiwari,
I.A.S. Deputy Secretary,
Department of Commerce
& Industries, Mantralaya,
Bhopal
6. S.N. Sharma, I.A.S.
Deputy Secretary,
Gas Rahat, Mantralaya
Bhopal

RESPONDENTS

(By Advocate - Shri B.D. Silva for respondents 1 & 2.
None for remaining respondents)

O R D E R

By M.P. Singh, Vice Chairman -

By filing this Original Application, the
applicant has claimed the following main reliefs-

(i) the official respondents be directed to
review the classification done by the
1990's Selection Committee and review the
same whereas applicants classification was
wrongly done as 'VERY GOOD' category in



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1990, whereas the same ought to have been improved "OUTSTANDING" category;

- (ii) That after a review DPC and upgradation of assessment of applicant's CR in 1990 is "OUTSTANDING". The applicant be given appropriate placement in the year 1990's selection list just after Shri D.P.Tiwari the last officer of the "OUTSTANDING" category and accordingly the applicant's year of allotment be revised.
- (iii) The seniority list Annexure-A/3 wherein private respondents are shown over and above the applicant be quashed. The respondents be commanded to place the applicant over and above the private respondents by granting him 1985 as YOL with seniority list below Shri D.P.Tiwari.
- (iv) All consequential benefits arising out of revision^{of} Pay, seniority and YOL be given to the applicant.
- (v) Set aside the order dated 13.10.1999 (Annexure-A-2).

2. The brief facts of the case are that the applicant was appointed in the State Civil Service in the year 1975. He was promoted to the Indian Administrative Service (for short 'IAS') according to provisions of IAS(Appointment by Promotion)Regulations,1955 (hereinafter referred to as 'the Promotion Regulations') and was assigned 1987 as the year of allotment. The grievance of the applicant is that private respondents S/Shri B.K.Ramole, Awadhesh Narayan Tiwari and S.N.Sharma, who were graded as 'very good' have been appointed to the IAS on the basis of the select list of 1990. The applicant has been appointed on the basis of the select list prepared in the year 1993 in which he was graded as 'outstanding'. The contention of the applicant is that his CRs are consistently 'outstanding'. He was considered for promotion to IAS in the year 1990 in which he was graded as 'very good' and, therefore, could not be included in the select list of that year. According to him, his CRs being 'outstanding' throughout his career, he should have been included in the category of 'outstanding' in the year 1990 and have been appointed to the IAS accordingly with all consequential benefits. He has also stated that it was perhaps ⁱⁿ perhaps

because he was at the bottom of the list of persons who came in the zone of consideration, therefore, he could not have been included as outstanding candidate in the select list. The applicant has also submitted that in the gradation list of IAS borneon MP cadre as on 1.2.1998 the applicant's junior S/Shri B.K.Ramole, Awadhesh Narayan Tiwari and S.N.Sharma were given 1986 as the year of allotment and were assigned seniority at serial nos.261,262 and 245, whereas the applicant was given seniority at serial no.276. According to the applicant, these three officers were assigned 'very good' category both in 1990 and 1993 select lists, and were kept below the applicant and Jawahar Shrivastava in the 1993 select list. These officers have got the year of allotment changed by order of this Tribunal.

2.1 The main contention of the applicant is that he should have been graded as 'outstanding' by the selection committee which met in the year 1990 and should have been included in the select list of that year, and on that basis he should have been granted all consequential benefits. Aggrieved by this, he has filed this OA.

3. In this case, respondents 1 & 3 are proforma parties. Respondent no.2,i.e. the Union Public Service Commission is the main party as the select list of State Civil Service Officers for promotion to IAS is prepared by the UPSC. The respondent no.2^{& 3} have filed their reply and respondent no.1 have not filed their reply.

4. The UPSC in their reply have stated that the selection committee classify the officers as 'outstanding', 'very good', 'good' and 'unfit' on an overall relative assessment of their service records in accordance with the provisions of the Promotion Regulations. The selection committee is not guided merely by the overall grading that may be recorded in the ACR but in order to ensure justice equity and fair play makes its own assessment on the basis of indepth examination of service record of eligible

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officers, deliberating on the quality of the officer on the basis of performance as reflected under various columns recorded by the reporting/reviewing officer/ accepting authority in ACRs for different years and then finally arrives at the classification to be assigned to each eligible officer in accordance with provisions of the Promotion Regulations. While making overall assessment, the Selection Committee takes into account orders regarding appreciation for meritorious work done by the concerned officer. Similarly, the Selection Committee also keeps in view orders awarding penalties or any adverse remarks communicated to the officer, which even after due consideration of his representation have not been completely expunged. The matter relating to assessment made by the selection committee has been contended before the Hon'ble Supreme Court in number of cases. In the case of Nutan Arvind Vs. Union of India & others, (1996)2 SCC 488 the Hon'ble Supreme Court has held as under-

"When a high level committee had considered the respective merits of the candidates, assessed the gradings and considered their cases for promotion, this Court cannot sit over the assessment made by the DPC as an appellate authority".

The respondent-UPSC have also relied on the decision of Hon'ble Supreme Court in the case of U.P.S.C. Vs. H.L. Dev & ors. AIR 1988 SC 1069 wherein their Lordships have held that "how to categorise in the light of the relevant records and what norms to apply in making the assessment are exclusively the functions of the Selection Committee. The jurisdiction to make the selection is vested in the Selection Committee".

The respondent-UPSC have further stated that the applicant was assessed by the Selection Committee of March 1990 as 'very good' and by the Selection Committee of March 1993 as 'outstanding', based on the criteria applied uniformly to officers in the zone of consideration before the respective selection committee. It has been further submitted that

S/Shri B.K.Ramole, Awadesh Narain Tiwari and S.N.Sharma were included in the select list of 1990-91 prepared by the selection committee

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on 17.12.1990. They were made senior to the applicant in IAS vide Govt. of India notification dated 9.12.1997 in pursuance of this Tribunal's order dated 25.4.1997. They have rightly been allotted an earlier year of allotment than the applicant. The respondent-UPSC have lastly submitted that in view of the facts and rule position, it is amply clear that this OA is devoid of merits and is liable to be dismissed.

5. The respondent-State of M.P. in their reply have stated that the points raised by the applicant in the OA mostly relate to Union of India and the UPSC. The respondent-State Government has a very little role in the matter, as such a detailed reply does not seem to be necessary.

6. We have very carefully considered the rival contentions and perused the records. The learned counsel for the respondent-UPSC has submitted minutes of the meeting of the selection committees which met in the years 1990 and 1993. On a perusal of the minutes of the selection committee, which met on 17.12.1990, we find that a select list of 16 officers was prepared. The zone of consideration was of 49 persons in which the name of the applicant is placed at serial no. 48, whereas the names of S/ Shri B.K. Ramole, S.N. Sharma and A.N. Tiwari appeared at serial nos. 21, 14 and 25 respectively. All the four persons including the applicant were assessed as 'very good'. Since S/ Shri B.K. Ramole, S.N. Sharma and A.N. Tiwari were very senior in the seniority list of State Civil Service, their names were included in the select list of the year 1990 on the basis of 'very good' grading. Since the applicant was placed at serial no. 48 and was assessed as 'very good' and only 16 persons were included, his name could not be included for want of vacancies. Names of officers placed at serial nos. 6, 8, 13 & 14

were included in the select panel on provisional basis subject to clearance of enquiries pending or decided to be instituted against them/ grant of integrity certificate by the State Government. We have also perused the minutes of the meeting of the selection committee which met on 15th & 16th March, 1993, in which a select list of 19 persons was prepared. A total number of 64 persons were considered/ whose names figured in the zone of consideration. The name of the applicant was at serial no. 36, whereas the names of private-respondents S/shri S.N.Sharma, B.K.Ramoley and Awadesh Narayan Tiwari were at serial nos. 11, 13 & 17 respectively. All the three private-respondents were graded as 'very good' whereas the applicant was assessed as 'outstanding'. In the select list consisting of 19 persons, the applicant was placed at serial no. 2 being 'outstanding' whereas S/Shri S.N.Sharma, B.K.Ramoley and Awadesh Narayan Tiwari were placed at serial nos. 5, 6, & 9 respectively, being assessed as 'very good'.

7. We have also perused the original ACR dossier of the applicant produced by the respondent-State Government. We have very carefully perused the confidential reports of the applicant from 1985 to 1990 and we are satisfied that the grading of 'very good' awarded by the selection committee in the meeting held in the year 1990 is correct and justified as we find that the CRs during this period were consistently not 'outstanding'. Therefore, there is no ground to interfere with the proceedings of the selection committee of 1990 to review the case of the applicant for upgradation of his CR from 'very good' to 'outstanding'. Because of the mere fact that private-respondents 4, 5 & 6 who were senior to the applicant in the State Civil Service and were also included in the select list of 1990 have been granted appointment to the IAS on the basis of that select list, will in no way grant any benefit to the applicant, as it is an admitted fact that the applicant was junior in the State Civil Service and was not graded in the year 1990 as 'outstanding', and thus



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could not be included in the select list of 1990. Therefore, the claim of the applicant that ^{as} his juniors have been appointed, he should also be appointed is baseless and unfounded and is accordingly rejected.

8. In view of the foregoing, we do not find any merit in this Original Application and the same is accordingly dismissed. In the facts and circumstances of the case, the parties are directed to bear their own costs.

(Signature)
(G. Shanthappa)
Judicial Member

(Signature)
(M.P. Singh)
Vice Chairman

rkv.

File No:
162.41

S. Paul
B. da Silva
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