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CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

25.07.2011

OA No. 245/2011

Mr. C.B. Sharma, Counsel for applicant.
Mr. V.D. Sharma, Counsel for respondent no. 1.
Mr. Abhay Jain, Counsel for respondent no. 4.
None present for other respondents.

Learned counsel for respondent no. 4 submitted he has filed reply in the Registry. The Registry is directed to place the same on record.

Put up on 27.07.2011.

Anil Kumar

(ANIL KUMAR)
MEMBER (A)

K. S. Rathore

(Justice K.S. Rathore)
MEMBER (J)

AHQ

27.7.2011

27.7.2011
Mr. C.B. Sharma, Counsel for applicant
Mr. V.D. Sharma, Counsel for respondent No. 1 & 2
Mr. Abhay Jain, Counsel for respondent No. 4
Heard. The OA is disposed of by a
separate order.

Anil Kumar
(Anil Kumar)
M (A)

K. S. Rathore
(Justice K.S. Rathore)
M (J)

Reply filed by
R-4 *Ans*
25/7/11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 27th day of July, 2011

ORIGINAL APPLICATION NO. 245/2011

CORAM

HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Ashok Iyer son of Shri A. Sadashivan aged about 54 years, resident of A-40, Nehru Nagar, Jaipur and presently posted as Deputy Registrar, Department of Cooperative and on deputation as General Manager, Rural Non Farm Development Agency (RUDA), Jaipur.

.....Applicant

(By Advocate: Mr. C.B. Sharma and R.P. Sharma)

VERSUS

1. Union of India through its Principal, Department of Personnel, Government of Rajasthan, Secretariat, Jaipur.
2. Government of Rajasthan through its Principal Secretary, Department of Cooperative, Government of Rajasthan, Secretariat, Jaipur.
3. Union of India through its Secretary, Ministry of Personnel, Public Grievances and Pensions, Government of India, Department of Personnel and Training, North Block, New Delhi.
4. Manjri Bhanti wife of Shri Mukesh Bhanti, aged about 54 years, resident of Chief Commissioner's Residence, Income Tax Colony, Malaviya Nagar, Jaipur.

.....Respondents

(By Advocates: Mr. V.D. Sharma – Respondent no. 1 & 2.
Mr. Abhay Jain – Respondent no. 4
None for respondents nos. 3)

ORDER (ORAL)

The present OA is directed against the letter dated 25.05.2011 (Annexure A/1) by which respondent no. 2 recommended and nominated three officers belonging to Rajasthan State Cooperative Services for promotion by interview from Non State Civil Service Officers into Indian Administration Services Cadre of Rajasthan against



non state civil service quota ignoring the claim of the applicant inspite of the fact that applicant is eligible as per his better service record and his name was also recommended in the year 2009 and the applicant appeared before the selection committee before UPSC.

2. Learned counsel for respondents nos. 1 & 2 submitted that the relief claimed by the applicant to include his name in the penal of officers those recommended for screening committee vide letter dated 25.05.2011 (Annexure A/1). He further submitted that Section 3 of All India Services Act, 1951 provides for regulation of recruitment and conditions of service of person appointed to All India Service and in exercise to power conferred under Section 3 of the Act of 1951, the Central Government framed Indian Administrative Service (Appointment by Selection) Regulations, 1997. Regulation 4 of Regulations 1997 reads as under:-

"4. State Government to send proposal for consideration of the committee - (1) The State Government shall consider the case of a person not belonging to the State Civil Service but serving in connection with the affairs of the State who

- (i) is of outstanding merit and ability; and
- (ii) holds a Gazetted post in a substantive capacity; and
- (iii) has completed not less than 8 years of continuous service under the State Government on the first day of January of the year in which his case is being considered in any post which has been declared equivalent to the post of Deputy Collector in the State Civil Service and propose the person for consideration of the Committee. The number of person proposed for consideration of the Committee shall not exceed five times the number of vacancies proposed to be filled during the year.

Provided that State Government shall not consider the case of a person who has attained the age of 54 years on the first day of January of the year in which the decision is taken to propose the names for the consideration of the Committee.



Provided also that the State Government shall not consider the case of person who, having been included in an earlier select list, has not been appointed by the Central Government in accordance with the provisions of regulation 9 of these regulations.

3. Learned Counsel for the respondents further submits that the selection procedure of Non State Civil Service Officer is as under:-

"The names of officer holding gazetted posts and fulfilling the eligibility criteria as laid down in Indian Administrative Service (Appointment by Selection) Regulations, 1997 are obtained from various departments by Department of Personnel. The names proposed by the various departments are considered by the internal screening committee constituted under the orders of the Chief Secretary and short listed by the screening committee for sending to UPSC to be finally considered by the Selection Committee, as the ratio of zone of consideration is 5:1"

4. The Principal Secretary, Department of Personnel vide DO letter dated 26.04.2011 requested all the Administrative Secretaries to send nominations for promotion to IAS against three vacancies available on 01.01.2011 of only those Non SCS officers who possess outstanding record and have completed 18 years of actual service in a State Service and who have not attained the age of 54 years on the first day of January, 2011. In response to letter dated 24.04.2011, the Cooperative Department after considering the relevant service record and seniority position of its eligible officers recommended the names of following three officers having outstanding service record for consideration of the screening committee

- (i) Smt. Manjari Bhanti
- (ii) Shri Shiv Kumar Bakoliya
- (iii) Shri Surendra Singh



5. It is stated that the applicant is junior to the aforesaid three officers in the cadre of Deputy Registrar as per final seniority list issued by the Cooperative Department vide letter dated 21.06.2010 wherein his name stands at sr. no. 80 and thus his name could not be recommended by his Administrative Department i.e. Cooperative Department. Learned counsel for the respondents further submitted that in earlier occasion also, when the name of the applicant was not included by the Cooperative Department, the applicant preferred a Writ Petition No. 7551/2009 before the Hon'ble High Court and the Hon'ble High court vide its order dated 10.11.2009 having considered the ACRs of the applicant for the year 2006-2007 and 2007-2008 and after relying upon the decision of the Hon'ble Supreme Court in the case of **Dev Dutt vs. Union of India**, 2008 (8) SCC 725, and after taking into consideration the facts & circumstances of the case observed that the remarks, which were down graded in two ACRs of the applicant for the year 2006-2007 and 2007-2008, be ignored and his candidature may be considered afresh by the respondents for selection under Indian Administrative Services (Appointment by Selection) Regulation, 1997 and the Writ Petition was accordingly disposed of by the Hon'ble High Court.

6. It is also not disputed that pursuant to the directions issued by the Hon'ble High court, the name of the applicant was included in the lists of officers who appeared for interview before the selection committee.



7. The main thrust of the applicant in this OA is to include his name for consideration for promotion to Indian Administrative Service as he is more meritorious than Manjari Bhanti . The comparative ACRs has also been placed on record as Annexure A/10, which is as under:-

S.No.	Year	Smt. Manjari Bhanti	Ashok Iyer
1.	2001-02	Part 1 st – Good Part 2 nd - Excellent	Excellent
2.	2002-03	Good	Excellent
3.	2003-04	Part 1 st – Excellent Part 2 nd - Good	Very Good
4.	2004-05	Excellent	Excellent
5.	2005-06	Excellent	Part 1 st – Very Good Part 2 nd – Excellent
6.	2006-07	Very Good	Excellent
7.	2007-08	Very Good	Excellent
8.	2008-09	Excellent	Excellent
9.	2009-10	Not Available	Excellent

8. Although the applicant is comparing ^{his} his merit with Smt. Manjari Bhanti but he has not impleaded her as a necessary party respondent. Smt. Manjari Bhanti herself moved a Misc. application for impleadment her as a party respondent and this Court vide order dated 11.07.2011 allowed the Misc. Application and impleaded Smt. Manjari Bhanti as party respondent no. 4.

9. The applicant has challenged the order dated 25.05.2011 (Annexure A/1) wherein the names of Smt. Manjari Bhanti, Shiv Kumar Bakolia and Surendra Singh had been referred by the Cooperative Department to the Principal Secretary, Department of Personnel, Shiv Kumar Bakolia and Surendra Singh have also not been impleaded as a party respondents, to this effect the applicant



submitted that he only wanted that his name be included in the list at sr. no. 4 and he do not want to challenge the inclusion of these names.

10. Letter (Annexure A/8) issued by Principal Secretary to the Government mentioned that only those Non State Civil Services officers are eligible for promotion to Indian Administrative service who posses outstanding record and have completed 18 years of actual service in a State Service and who have not attained the age of 54 years on the 1st day of January, 2011. It is also mentioned to recommend the names of not more than three officers of outstanding merit from Non State Civil Service. Thus the stand taken by the respondents nos. 1 & 2 is that they have included only the names of three officers having outstanding service record for consideration of the screening committee and since the applicant is junior to these three officers, his name has not been recommended.

11. Having considered the rival submissions of the respective parties and upon perusal of relevant record and after having gone through the relevant provisions of Indian Administrative Services (Appointment by Selection) Regulation, 1997 and All India Services Act 1951. As the applicant is not claiming any relief over & above the names of officers whose names have been mentioned in letter dated 25.05.2011 (Annexure A/1) and only prayed that his name may also be included in the list. Looking to the ACRs of the applicant, he is throughout 'Excellent' and 'Very Good' and at least has a right of consideration. Thus we are of the view that the name of the applicant be included in the list for nomination of Non State Civil Service Officers for promotion



into Indian Administrative Service Cadre of Rajasthan against Non SCS Quota as a 4th candidate in addition to the names of 3 officers whose names were already sent.

11. With these observations, the OA is disposed of with no order as to costs.

Anil Kumar

(ANIL KUMAR)
MEMBER (A)

K.S. Rathore

(JUSTICE K.S. RATHORE)
MEMBER (J)

AHQ