

(6)

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

30.09.2011

OA No. 412/2011

Mr. C.B. Sharma, Counsel for applicant.
Mr. Mukesh Agarwal, Counsel for respondent no. 1.
Mr. V.D. Sharma, Counsel for respondent no. 3.

Put up on 14.10.2011. In the meanwhile, the applicant may file rejoinder, if any.

Anil Kumar

(Anil Kumar)
Member (A)

J. S. Rathore

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

ahq
B

14/10/2011 [OA 412/2011]

Mr. C.B. Sharma, Counsel for applicant.
Mr. Mukesh Agarwal, Counsel for Respondent No. 1.
Mr. V.D. Sharma, Counsel for respondent No. 3.

Heard.

The O.A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.

Anil Kumar

[Anil Kumar]
Member (A)

J. S. Rathore

[Justice K.S. Rathore]
Member (J)

Reply filed to
the O.A. R-123
2

Reply not filed
to the O.A. R-2

Rejoinder ~~not~~
filed
2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 14th day of October, 2011.

ORIGINAL APPLICATION No. 412/2011

CORAM :

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

Versus

1. 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.
2. Union Public Service Commission through its Secretary, Dholpur House, Shahjahan Road, New Delhi.
3. State of Rajasthan through its Principal Secretary, Department of Personnel, Government of Rajasthan, Secretariat, Jaipur.

... Respondents

(By Advocates: Mr. Mukesh Agarwal – Respondent no. 1
Mr. V.D. Sharma – Respondent no. 3)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following relief:-

- "(i) That the respondent no. 1, 2 & 3 be directed to allow the applicant to appear for interview for promotion to Indian Administrative Services to be organised by respondent no. 2 shortly with all consequential benefits.
- (ii) Any other order, direction or relief may be passed in favour of the applicant, which may be

Anil Kumar

deemed fit, just and proper under the facts and circumstances of the case.

- (iii) That the cost of this application may be awarded."

2. Brief facts of the case are that the applicant was duly selected through Rajasthan Public Service Commission to the services of Rajasthan State Cooperative in the year 1989 and since then was continuously working as Assistant Registrar till 13.08.1998 and as Deputy Registrar since 14.08.1998 with the entire satisfaction to the department. That the service record of the applicant always remain meritorious. That the Indian Administrative Service (Recruitment) Rules, 1954 and rules/regulations of 1997 provide promotions to the cadre of Indian Administrative service from non State Civil Services. As per these provisions, respective department of the State Government recommend/nominate name of such officers those having meritorious record. That respondent no. 3 had earlier requested all the Principal Secretaries of all the departments of Government of Rajasthan to recommend/ nominate three names of officers for selection to Indian Administrative Services non state civil services vide their letter dated Nil. The Cooperative Department recommended/nominated the names of three officers vide their letter dated 25.05.2011 and the name of the applicant was not recommended by the Cooperative Department to the Department of Personnel, Government of Rajasthan. Therefore, the applicant filed an

Anil Kumar

OA No. 245/2011. This Tribunal while deciding this OA vide its order dated 27.07.2011 passed the following order:-

"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 Services 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."

3. That respondent no. 3 organised screening committee on 19.08.2011 and selected 15 officers to face interview before the respondent no. 2 but the name of the applicant does not find place in the list of 15 officers. Copy of the self prepared list has been annexed as Annexure A/1 (Actually there are 14 names in Annexure A/1). That respondent no. 3 and the screening committee did not included any officer from the cooperative department and included 5 officers from Accounts Department in the initial list of 31 officers. That the action of respondent no. 3 is arbitrary, illegal, unjustified and also against the rules/regulations/instructions on the subject and further against facts & circumstances under which applicant has been ignored from recommendation/ nomination for promotion to the cadre of Indian Administrative Services by way of interview before

Anil Kumar

respondent no. 2 and such action of the respondent no. 3 is liable to be quashed and set aside. That the respondents allowed the applicant to face interview after the recommendations of the Screening in the year 2009-2010. As per the service record, the applicant is fully eligible for promotion to the cadre of IAS and his name was also recommended for interview in the year 2010. But in the present year 2011, the applicant has been ignored by respondent no. 3. That the applicant is having only last chance for consideration on the basis of his age which should not be more than 54 years as on 01.01.2011 and respondent no. 3 intentionally ignored the applicant due to prejudice on account of approaching Hon'ble Tribunal and, therefore, he has requested that respondents nos. 1 to 3 be directed to allow the applicant to appear for interview for promotion to Indian Administrative Services to be organised by respondent no. 2 shortly.

4. Respondents nos. 1 & 3 have filed their reply. Respondent no. 3 has stated that Section 3 of All India Services Act, 1951 provides for regulation of recruitment and conditions of services of persons appointed to All India Services. In exercise of the powers conferred by Section 3 of the Act of 1951, the Central Government framed Indian Administration Service (Appointment by Selection) Regulation 1997 and Regulation 4 of Regulations of 1997 is being reproduced hereunder:-

Anil Kumar

"4. State Government to sent proposal for consideration of committee No. 1 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,

1. is of outstanding merit and ability
2. holds a gazetted post in a substantive capacity and
3. has completed 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 proposed the person for consideration of the Committee. The number of persons proposed for consideration of the Committee shall not exceed 5 times the number of vacancies proposed to be filled during the year....."

The Selection procedure of non state Civil Service

Officer is as under:-

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

5. It is further stated that the Principal Secretary, Department of Personnel vide D.O. 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 possessed outstanding record and have completed 18 years of actual service in the State Service and who have not

Anil Kumar

attained the age of 54 years on the first day of January, 2011. The name of the applicant was forwarded by the CMD Ruda, the letter of CMD RUDA was returned to him along with request to forward the nomination of the applicant to D.O.P. through co-operative department. However, his name was not sent by the Cooperative Department. The applicant filed OA No. 245/2011 before the Hon'ble Tribunal and Hon'ble Tribunal vide its order dated 27.07.2011 has allowed the OA and direction has been given to include the name of the applicant as a fourth candidate in addition to the names of three officers whose names were already sent by the Cooperative Department. The Screening Committee after careful scrutinizing the service record recommended names of 15 officers and the applicant was not found suitable.

6. In their reply, Respondent no. 1 has explained various provisions of recruitment of All India Services Act, 1951 and has submitted that requisitioning of the name of suitable Non SCS Officers from various Departments of the State Department for consideration and short listing of the candidates there from by Screening Committee headed by the Chief Secretary of the concerned State for the purpose of sending to UPSC for consideration under IAS (Appointment by Selection) Regulation, 1997 for appointment to IAS is purely the subject matter coming under the purview of the State Government concerned. This

Anil Kumar

Department has no role to play in the internal matters of the State Government. We have been impleaded merely as proforma respondent.

7. The applicant has filed rejoinder. In the rejoinder, the applicant has stated that respondents have selected officers like Surjeet Meena from Statistics Department against whom Anti Corruption Bureau registered the case on 05.12.2006 and vide order dated 02.12.2008, he is also facing disciplinary proceedings under Rule 16. Copies of letter dated 05.12.2006 and order dated 02.12.2008 have been annexed as Annexure A/8 & A/9. Besides this Dr. F.S. Gauri from Medical Department against whom Police Investigations on the basis of FIR is pending and so many officers as stated by the applicant in the OA those not having better service record than the applicant have been placed on select list. Thus the respondents have not acted as per the provisions of Act of 1951 and regulations of 1997.

8. Heard the rival submissions of the parties and perused the documents on record. Learned counsel for the applicant reiterated the arguments that he has taken in the OA as well as in the rejoinder. He argued that the applicant has an excellent service record and less meritorious persons as indicated in the rejoinder like Shri Surjeet Meena and Dr. F.S. Gauri have been recommended. While in the case of Meena, Anti Corruption Bureau had registered the case on

Anil Kumar

05.12.2006. He is also facing disciplinary proceedings under Rule 16 and in the case of Dr. F.S. Gauri, Police investigation is pending on the basis of FIR. Therefore, the applicant is having the better record and his name should be included in the short listed candidates to be sent to UPSC for interview to the Indian Administrative Services.

9. Learned counsel for the respondents argued that in compliance to the CAT's order dated 27.07.2011 in OA No. 245/2011, the name of the applicant was recommended by the Cooperative Department to the Department of Personnel, Government of Rajasthan. Thereafter, the Screening Committee considered the service record including the APAR and other relevant record of all eligible officers including the applicant but the applicant was not found suitable by the Screening Committee. They have denied that there is any prejudice-ness by the Screening Committee against the applicant. That the Screening Committee after careful consideration of the service record of all eligible officers recommended the names of 15 officers. The Screening Committee has followed the due procedure as prescribed under the rules and there is no violation of the provisions/rules/regulations or departmental instructions. That the action of respondent no. 3 is fully legal and as per the provisions of rules. The applicant has only a right of consideration but he has no right to be appointed. His name was duly considered by the Screening

Anil Kumar

Committee but he was not found suitable as compared to other persons and therefore, his name was not recommended. As regards Shri Surjeet Singh and Dr. F.S. Gauri are concerned, they have not been impleaded as party respondents. Therefore, no adverse order can be passed against them. Moreover, their names were recommended by the respective department and their administrative departments have not indicated any adverse factors against them. The information given by the applicant about Shri Meena dated 12.12.2006 (Annexure A/8), which is almost 5 years old and information dated 02.12.2008 (Annexure A/9), which is almost 3 years old.

10. Having heard the rival submissions and after perusal of documents on record, we are of the view that the applicant has failed to make out any case for interference by this Tribunal. Earlier the applicant had approached this Tribunal with the request that his name may be forwarded by the co-operative alongwith three others to the Department of Personnel and this Tribunal had directed vide its order dated 27.07.2011 in OA No. 245/2011 (Annexure A/2) that the name of the applicant may be forwarded as a 4th candidate in addition to the names of three officers whose names were already sent. Thus his right of consideration was protected by the Tribunal. The Department of Personnel invited the names of suitable officers to fulfilled eligibility criteria under the relevant

Anil Kumar

regulations from the different departments of State Government. The different departments recommended the names of the candidates to the Department of Personnel. The Department of Personnel thereafter considered the names of all the officers recommended by the different departments and prepared the list of 15 officers to be sent to the Central Government/UPSC for interview and for final selection to the Indian Administrative Services. It is not disputed that the name of the applicant was also considered by the Screening Committee but the applicant was not found suitable. As regards two officers which he has mentioned in the rejoinder, they have not been made party in the OA, therefore, no adverse conclusion can be drawn against Shri Surjeet Meena and Dr. F.S. Gauri behind their back. Moreover, as pointed out by the respondents while arguing the case that the documents furnished by the applicant are very old and their respective departments have not communicated any adverse comments about either of them. Therefore, in the absence of any adverse comments from their respective departments, the Screening Committee recommended their names and found them otherwise suitable for recommendation. For the sake of arguments, even if the names of these officers are excluded from the list of 15 candidates, no right will accrue to the applicant that his name be included in the panel of 15 officers to be recommended by the State Government. There may be other officers more suitable than the applicant

Anil Kumar

It is in the domain of the Screening Committee and the State Government to select suitable candidates and recommend their names for interview to the Central Government/UPSC. In this case we are of the opinion that State Government has followed the proper procedure as per the regulations for short listing the candidates. We find no reason/justification for our interference in the decision taken by the Screening Committee/State Government in this particular case.

11. Therefore, this OA being devoid of merit is dismissed with no order as to costs.

Anil Kumar

(Anil Kumar)
Member (A)

AHQ

K.S. Rathore

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