

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-5

D.A. No. 176 of 1994

Date of decision 20.6.1995

Shri Brahmananda Pandey

PETITIONER(S)

Sri G.N.Das

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Sri G.Sarma, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE JUSTICE SHRI S.C.MATHUR, CHAIRMAN.

THE HON'BLE SHRI G.L.SANGLYINE, MEMBER(A).

1. Whether Reporters of local papers may be allowed to see the Judgement?

No

2. To be referred to the Reporter or not?

Yes

3. Whether their Lordships wish to see the fair copy of the Judgement?

Seen

4. Whether the Judgement is to be circulated to the other Benches?

NO

Judgement delivered by Hon'ble Chairman.

[Signature]

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 176 of 1994.

Date of decision : This the 20th day of June, 1995.

The Hon'ble Justice Shri S.C.Mathur, Chairman.

The Hon'ble Shri G.L.Sanglyine, Member(Administrative).

Shri Brahmananda Pandey
S/o Late Fatehram Pandey,
Resident of V/11,
Kunjaban Township
P.S.- West Tripura
Dist. - West Tripura
P.I.N. 799 006

..... Applicant

By Advocate Sri G.N.Das.

-versus-

1. The Union of India
(Notice to be served upon the Secretary
to the Government of India, Ministry of
Home Affairs, Public Grievances and
Pensions (Department of Personnel and
Training), New Delhi.
 2. The Chairman,
Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi-110 001
 3. The State of Tripura through the
Chief Secretary to the Government of Tripura,
Agartala.
 4. The State of Manipur through the
Chief Secretary to the Govt. of Manipur,
Imphal
 5. The Director General of Police,
Government of Tripura,
Agartala
 6. Shri N.Rajendran,
Assistant Inspector General of Police
(Head Quarters), Agartala.
- 2

7. Shri Prasanta Kumar Majumder,
Commandant, C.T.I. A.D. Nagar,
Agartala,
Tripura West - 799 003

..... Respondents

By Advocate Sri G. Sarma, Addl. C.G.S.C.

ORDER

MATHUR J. CHAIRMAN.

The applicant Brahmananda Pandey has approached this Tribunal seeking direction to the respondents to appoint him to the Indian Police Service (Manipur-Tripura Cadre) on the basis of the select list prepared in the year 1990-91 in accordance with the Indian Police Service (Appointment by Promotion) Regulations 1955, for short Regulations.

2. Despite service of notice no written statement has been filed on behalf of any of the respondents. However Sri Golap Sarma appeared before us representing respondents 1 and 2. Other respondents in the case are State of Tripura, State of Manipur, the Director General of Police, Govt. of Tripura, Agartala, N.Rajendran and Prasanta Kumar Majumder. These respondents have neither appeared nor filed written statements. The averment made in the application therefore stand uncontroverted.

3. According to the averments made in the application the applicant was appointed as Sub-Inspector of Police under the Govt. of Tripura. He was subsequently promoted to the post of Inspector. On 30.11.77 he was inducted into the Tripura Police Service. In the year 1981 he became eligible to be considered for promotion to the Indian Police Service. On 6.3.91 the select committee met to prepare a panel for promotion to the I.P.S. The applicant's name was included in the panel. His name was at serial

No. 4. The name of respondent No. 6, N. Rajendran, was at serial No. 5. Respondent No. 7 Prasanta Kumar Majumder was not included in the panel. Officers at serial numbers 1 to 3 in the select list were promoted to the IPS by order dated 25.2.92. One more vacancy arose and the applicants' name was recommended by the State Government to the Central Govt. for promotion against the said vacancy. In the year 1992 the Selection Committee again met and prepared a fresh panel in which the names of respondents 6 and 7 were included. The name of the applicant was also included in the panel but respondent nos. 6 and 7 were higher in the merit position. On 6.12.92 respondents 6 and 7 were promoted to the IPS on the basis of their empanelment made in the year 1992. The applicant filed the instant O.A. on 17.6.94 complaining that he is victim of inaction on the part of the Central Government.

4. The applicant's plea is that his name was recommended by the State Government before the panel prepared in the year 1991 lapsed and therefore the Central Government could not refuse to appoint the applicant.

5. Admittedly promotion of State Police Officers to the IPS is governed by the Regulations mentioned herein above. Regulation 5 deals with preparation of the Select List. The Select List is required to ^{b2} send to the UPSC. The approval of the list is made by the Commission under Regulation ³ 7. Clause ¹ (iv) of this Regulation provides that the Select List as finally approved by the Commission shall form the Select List of the Members of the State Police Service. Clause ⁴ (iv) provides that the Select List shall ordinarily be in force until its review and revision, effected under sub-regulation (4) of Regulation (5). Regulation 8 deals with appointment to cadre posts from the Select List.

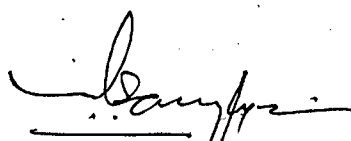
6. Interpreting the provisions of above Regulations it has been held by Their Lordships of Supreme Court in Syed Khalid Rizvi and Others Vs. Union of India & Ors. 1993 Supple. III SCC 575 that the requirement of preparing the Select List annually is mandatory. Once the mandatory obligation has been discharged Clause (iv) of Regulation 7 comes into play under which the Select List prepared earlier lapses. In the case on hand it is not disputed that before the Select List of 1992 was prepared no appointment order had been issued by the Central Government. The State Government is only recommending body; it is not the appointing authority. In Syed Khalid Rizvi's case Their Lordships have observed that inclusion of a person's name in the Select List does not give that person a vested right to be appointed. Accordingly if no order of appointment was issued before the subsequent list came into existence, the applicant cannot claim ~~an~~ appointment on the basis of mere recommendation of the State Government.

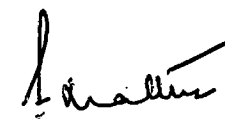
In view of the above, the applicants' approach to the Tribunal is absolutely misconceived.

7. The learned counsel for the applicant cited the Division Bench decision of the Tribunal at Jabalpur in Nishi Kant Jadhav Vs. Union of India & Ors 1993(3) SLJ 139 for the proposition that the Select List once prepared remains valid till the next list is approved by the Commission. The facts of this case are that a Select List was approved by the UPSC on 3.7.1987 in which the name of the applicant was at serial number 5. Officers at serial numbers 1 and 2 were promoted but the applicant was not. Another Select List was approved by the Commission on 24.6.88. The question that arose before the Tribunal was whether the list

finalised on 3.7.87 was in operation in December 1987 when promotion was denied to the applicant on the ground that the next Select List had come into operation. The Tribunal answered the question in the affirmative. The facts of the present case are entirely different. In the present case the subsequent list had been finalised without the applicant getting appointment. The earlier list lapsed. The applicant has not given material details namely the date on which the Selection Committee met to prepare Select List for the year 1992 and the date on which the list of 1992 was approved by the UPSC. This authority is therefore of no assistance to the applicant.

In view of the above, the O.A. is hereby dismissed. No order as to costs. Interim Order, if any operating shall stand discharged.


(G.L. SANGLYINE)
Member(A)


(S.C. MATHUR)
Chairman