

**Central Administrative Tribunal
Principal Bench**

OA No.3161/2016

New Delhi, this the 02nd day of February, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Ms. Nita Chowdhury, Member (A)**

Smt. Archana Ramasundaram
Aged about 59 years,
W/o Sri S. Ramasundaram
Presently working as Director General
Sashastra Seema Bal,
Ministry of Home Affairs,
Government of India,
Force Head Quarters,
East Block-V, R. K. Puram,
New Delhi 110 066.

.... Applicant.

(By Advocate : Shri Aditya Dewan)

Vs

1. State of Tamil Nadu
Through the Chief Secretary
Government of Tamil Nadu, Secretariat,
Chennai-9.
2. Principal Secretary to Government
Home, Prohibition & Excise Department,
Secretariat, Chennai 600 009.
3. Union of India
Through Home Secretary
Ministry of Home Affairs,
North Block,
New Delhi.

.... Respondents.

(By Advocate : Shri Sandeep Khurana and Ms. Seemab Ali Fatima for
respondent Nos.1 & 2.
Shri Dev. P. Bhardwaj for respondent No3.)

: O R D E R (ORAL) :

Justice Permod Kohli, Chairman :

This Application proceeds on admitted factual position as per pleadings of the parties.

2. The applicant is an IPS Officer belonging to 1980 batch of Tamil Nadu Cadre (IPS TN: 1980). In the year 2012-2013, she applied to the

State Government for Central deputation. The State of Tamil Nadu, i.e., Respondent No.1 vide letter dated 15.10.2013 forwarded her willingness for central deputation along with vigilance clearance to respondent No.3, i.e., Ministry of Home Affairs, which was communicated to the Department of Personnel & Training (DoP&T) on 21.10.2013. Respondent No.3 also forwarded a panel of officers including the name of applicant to DoP&T for consideration for the post of Additional Director, Central Bureau of Investigation (CBI). The CBI Selection Committee in its meeting held on 26.12.2013 recommended the name of one Shri R. K. Pachnanda, IPS (WB:83) for the post of Additional Director, CBI. However, the Appointments Committee of the Cabinet (ACC) approved the name of the applicant for appointment as Additional Director, CBI on the basis of her seniority, experience in the field of criminal investigation and experience as Additional Director General of Police and Training in the relevant field, etc. The DoP&T vide Note No.202/02/2013-AVD.II dated 07.02.2014 appointed the applicant as Additional Director, CBI for a period of four years. The decision was fully communicated to the Chief Secretary, Government of Tamil Nadu (Respondent No.1) and requested for relieving the applicant from the post of Director General of Police/Chairperson, Tamil Nadu Uniformed Services Recruitment Board (TNUSRB), the post held by her at the relevant time. Despite letters dated 11.02.2014 and 24.02.2014 to respondent No.1 for relieving of the applicant, the Tamil Nadu Government did not respond. In the meantime, the applicant was also empanelled as Director General of Police (DGP) at the Centre along with nine other IPS Officers of her batch. Her name figures at Sl. No.4 of the Order dated 04.03.2014 approved by the ACC. Vide another letter dated 07.04.2014, Secretary, DoP&T requested Respondent No.2 seeking earlier release of the applicant for joining CBI. Receiving no response, the DoP&T vide order dated

07.05.2014 directed the applicant to take charge as Additional Director, CBI immediately. In compliance to the said directions, the applicant relinquished the charge to Additional Director General of Police/Member, TNUSRB in the prescribed format and also informed the fact in writing to the Chief Secretary, Home Secretary and Director General of Police, Tamil Nadu on the same day, i.e., 07.05.2014. The applicant thereafter took charge as Additional Director, CBI on 08.05.2014. The CBI issued charge assumption report on the forenoon of 08.05.2014.

3. On 08.05.2014 itself, the applicant was placed under suspension with immediate effect in contemplation of the departmental enquiry by the State of Tamil Nadu. The order was said to be served late night around 2130hrs at the residence of the applicant at Chennai. The applicant represented against her suspension. Her representation was forwarded by the Director, CBI on 09.05.2014 with a remark that the applicant had joined CBI on the forenoon of 08.05.2014 and moved away from the administrative jurisdiction of the State of Tamil Nadu. The Tamil Nadu Government also approached the Central Government not to permit the applicant to join as Additional Director, CBI and if she has joined, her joining may be considered as *non est*. This request of the Tamil Nadu Government was responded to by the Central Government (DoP&T) vide letter dated 16.05.2014 informing them that their request is untenable. It was also communicated that the applicant had joined CBI on the express direction of the Central Government.

4. The applicant filed statutory appeal against her suspension order dated 08.05.2014 and charge memo dated 18.06.2014. On 30.04.2015, the suspension order dated 08.05.2014 was set aside by respondent No.3, i.e., Ministry of Home Affairs giving all the details of the applicant's appointment as Additional Director, CBI and her joining on 08.05.2014

on deputation. It was also noted that under proviso to Rule 3 (1) (b) of All India Services (Discipline & Appeal) Rules, 1969, the State Government had no jurisdiction to place her under suspension. The State of Tamil Nadu (Respondent No.1) challenged the order of Central Government dated 30.04.2015 before Hon'ble Delhi High Court in W.P. (C) No.5145/2015. While the writ petition was pending, the applicant was appointed as Director General of Police, National Crime Records Bureau (NCRB) on 16.06.2015. The said writ petition was dismissed on 28.09.2015 holding that Respondent No.1, i.e., State of Tamil Nadu, had no locus/jurisdiction to place the applicant under suspension on 08.05.2014 as on that date she was not serving under the State of Tamil Nadu. It was further observed that if there was a difference of opinion it would be view of the Central Government which would prevail and the Central Government having taken a view to set aside the suspension, order is justified. The aforesaid order passed by the learned Single Judge of the High Court was challenged in a Letters Patent Appeal (LPA) before the Division Bench of the Hon'ble High Court of Delhi in LPA No.806/2015. The said LPA was disposed of vide order dated 06.11.2015 with certain observations regarding the powers of the State to initiate disciplinary proceedings.

5. The applicant, in the meantime, filed OA No.3682/2015 on 05.10.2015 challenging the disciplinary proceedings initiated against her vide charge memo dated 18.06.2014. While this OA was pending, respondent No.2, i.e., Principal Secretary to Government of Tamil Nadu published the Establishment List of Indian Police Service, Tamil Nadu Cadre, dated 01.04.2016, wherein, against the name of the applicant, following remark was published "Under Suspension from 08.05.2014". It is the aforesaid remark in the Establishment List, which is subject

matter of challenge in the present OA, the applicant has sought for the following reliefs:-

- “(i) Quash and set aside the remarks “Under Suspension from 08.05.2014” from the establishment list of Indian Police Service, Tamil Nadu Cadre dated 01.04.2016 published by Respondent No.2 and direct Respondent Nos.1 and 2 to replace the same by the correct particulars of the Applicant as mentioned in Annexure-7 of the present Original Application, and
- (ii) Award cost of litigation; and/or
- (iii) Pass any other order (s) or direction (s), which this Hon’ble Tribunal may deem fit and proper in the light of the facts and circumstances if the instant case as well as in the interest of justice.”

The relevant entry in the Establishment List (Annexure A-6) reads as under:-

- “1. 1980 ARCHANA RAMASUNDARAM
RR Director General of Police
23.12.1980 **(Under Suspension from 08.05.2014)**

It is contended on behalf of the applicant that the aforesaid remark “Under Suspension from 08.05.2014” is totally unwarranted, illegal and frivolous. It is argued that the applicant is a senior IPS Officer having unblemished service career, and is a very competent and reputed officer. She is a recipient of President’s Police Medal for meritorious service and the President’s Police Medal for distinguished service based upon her performance, integrity and track record. The remark is otherwise factually incorrect, as on 01.04.2016, the applicant was not under suspension, her suspension having been set aside by Central Government on 30.04.2015. The remark has been made only to bring in disrepute the applicant not only in the State of Tamil Nadu but throughout the Police Force, and IPS community in the country.

6. The Central Government in its reply has supported the contention of the applicant, and admitted all the factual averments. Even the Tamil Nadu Government has admitted so far the factual matrix is concerned.

The only answer to the aforesaid remark is that the Tamil Nadu Government had filed a writ petition before the Delhi High Court against the cancellation of suspension, and even the order passed by the Tribunal quashing the disciplinary proceedings against the applicant vide judgment dated 11.05.2016 in OA No.3682/2015 was under challenge before the Hon'ble Delhi High Court in Writ Petition (Civil) No.6117/2016, wherein final orders were reserved when the said Establishment List was published. It is stated that since no further list was published thereafter, and thus the remark would be suitably modified as and when fresh list is published.

7. During the course of hearing, we are informed that Hon'ble Delhi High Court has dismissed the aforesaid writ petition vide judgment dated 30.11.2016. A copy whereof is placed on record.

8. We have heard learned counsel for the parties at length, and perused the record.

9. As noticed hereinabove, the facts are not disputed. The suspension of the applicant had been set aside by the Central Government on 30.04.2015. The remark in the Establishment List published on 01.04.2016 regarding the suspension order dated 08.05.2014 could not have been incorporated. Definitely such a remark in the Establishment List causes stigma to the applicant which is factually incorrect. The Tamil Nadu government should have been careful in publishing such a remark in the Establishment List when the suspension order did not exist. The suspension having been set aside by the Central Government and the order of setting aside the suspension having been upheld by the Hon'ble Delhi High Court, such a remark is totally illegal and uncalled for. This OA is accordingly allowed. The

impugned remark in the Establishment List is hereby quashed. Respondents are directed to issue a corrigendum deleting the remark from the Establishment List. This corrigendum shall be widely circulated and will also be published on the website of the Tamil Nadu State (Home Department) or any other site of the Government within a period of one month from the date of receipt of copy of this order.

(Nita Chowdhury)
Member (A)

(Justice Permod Kohli)
Chairman

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