

**Central Administrative Tribunal
Principal Bench**

OA No.2257/2018

New Delhi, this the 3rd day of October, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Sh. Kuldeep Pakad
S/o Late Johri Lal
R/o 372, NTO-CGHS Ltd.
Plot No.3-A, Sector-22,
Dwarka, New Delhi.

... Applicant.

(By Advocate : Shri V. C. Pandey)

Vs

Union of India through

1. Secretary
Ministry of Home Affairs
Govt. of India, North Block,
New Delhi.
2. Secretary, DoP&T
Govt. of India
Secretary, North Block,
New Delhi.
3. Secretary
Union Public Service Commission
Dholpur House, Shahjahan Road,
New Delhi.
4. Central Vigilance Commission
(through) Secretary,
CVC Satarkta Bhawan,
INA, New Delhi.
5. Chief Secretary
Govt. of NCT of Delhi
5th Level, Delhi Secretariat,
IP Estate,
New Delhi.

.... Respondents.

(By Advocates : Shri Piyush Gaur for respondent Nos.1, 2 & 4 and Shri R. V. Sinha and Shri Amit Sinha for respondent No.3.)

: O R D E R (ORAL) :**Justice L. Narasimha Reddy, Chairman:**

The applicant is an officer of Delhi Andaman and Nicobar Islands Civil Service (DANICS). He became ripe to be considered for being inducted into IAS in the AGMUT cadre. However, disciplinary proceedings were initiated against him by issuing a charge memo dated 31.07.2013. Challenging the charge memo, the applicant filed OA No.4445/2013 and an order of stay was granted therein, which remained in force for more than two years.

2. The competent authority had initiated steps for recommendation of the names of the suitable and eligible candidates for vacancies of the year 2015-2016 of AGMUT. The Selection Committee assessed the applicant as 'Very Good'. However, its recommendation for his induction into IAS was provisional in view of the pendency of disciplinary proceedings.

3. The applicant filed OA No.974/2018 before this Tribunal with a prayer to direct the respondents to expedite the disciplinary proceedings so that the recommendation of the Selection Committee would enure to his benefit. The OA was disposed of on 01.03.2018 with a direction to the respondents to complete the disciplinary proceedings within three months from the date of receipt of the order. Liberty

was also given to the applicant to seek remedial measures, if any grievance of the applicant is not redressed. Through order dated 08.03.2018, the Ministry of Home Affairs exonerated the applicant from all charges.

4. This OA is filed with a prayer to direct the respondents to fill the quota vacancy in UT segment of Joint AGMUT Cadre of IAS under Regulation 7 (2) of the IAS (Appointment by Probation) Regulations 1955 (for short, Regulations) by notifying the induction of the applicant against the vacancies of the year 2016, with all consequential benefits, and to direct the respondents not to invalidate the Select List of the year 2016 till the disposal of the OA. Other attendant reliefs are also claimed.

5. The applicant contends that the decision to exonerate him from the charges was taken by the Home Ministry in December, 2017 itself, and though there was no necessity to route the proceedings through the CVC at that stage, the proceedings were routed and that, in turn, delayed the issuance of formal order exonerating the applicant of the charges. He contends that he can be deemed to have been exonerated when the Select List was in force and accordingly, is entitled to be inducted into IAS against the vacancies of the year 2016.

6. Respondent Nos.1, 2 & 3 filed separate counter affidavits. The gist thereof is that though the applicant was exonerated from the charges through order dated 08.03.2018, the Select List elapsed by 11.02.2018 by operation of Clause 7 (4) of Regulations, and that the case of the applicant could be considered at that stage. It is also stated that the delay in conclusion of the disciplinary proceedings against the applicant was caused mostly by the applicant himself and on account of the interim orders obtained in OA No.4445/2013. Other grounds are also urged. The applicant filed rejoinder to the counter affidavits.

7. We heard Shri V. C. Pandey, learned counsel for the applicant and Shri Piyush Gaur, learned counsel for respondent Nos.1, 2 & 4 and Shri R. V. Sinha and Shri Amit Sinha, learned counsel for respondent No.3).

8. In a way, the applicant can be said to have suffered a self inflicted injury. Though, the disciplinary proceedings were initiated against him in the year 2013, they would have ended long back in the ordinary course, had he permitted them to proceed. In OA No.4445/2013, he challenged the charge memo itself and an interim order passed therein remained in force till the year 2016 when the OA itself was dismissed. The writ petition filed by the applicant against the OA was withdrawn. It appears that the department was

not successful in proving the charges against the applicant, and accordingly the same resulted in exoneration, through order dated 08.03.2018.

9. During the pendency of these proceedings, the case of the applicant was considered for induction into IAS against the vacancies of the year 2016. The Select Committee found the performance of the applicant to be 'Very Good'. However, left with no alternative, had made its recommendations provisionally since the disciplinary proceedings were pending.

10. The list/panel recommended by the Select Committee was notified on 14.11.2017. Clause 7 (4) of the Regulations is to the effect that the Select List prepared in a particular year shall be in force, till the 31st December of that year; or for a period of sixty days from the date of notification, whichever is later. In the instant case, the 60 days period applies and the Select List was valid up to 11.02.2018. However, by that time, the disciplinary proceedings were pending and it was only on 08.03.2018, that the order, exonerating the applicant from the charges was issued.

11. It is true that the Disciplinary Authority took a decision to exonerate the applicant from charges in December, 2017

itself. Para 20 of the counter affidavit filed by respondent No.1 reads as under:-

“20. That the Disciplinary Authority (i.e. the Hon’ble Home Minister) tentatively approved on 29.12.2017 to exonerate the applicant from all the charges leveled against him and he said decision was conveyed to CVC on 02.01.2018 through the CVO, MHA.”

However, the formal order was passed only on 08.03.2018 after obtaining the opinion of the CVC. Though learned counsel for the applicant submits that the requirement as to consultation with CVC at the second stage of the proceedings is dispensed with, we do not find that the rules of the CVC in this behalf were amended. At any rate that becomes purely academic once the order exonerating the applicant was passed only on 08.03.2018.

12. There are also cases where the time stipulated under Clause 7 (4) of the Regulations can be extended where the concerned State Government forwards an unconditional recommendation before the expiry of the panel. Even that was not done in the instant case before 11.02.2018.

13. We do not find any basis to grant any relief to the applicant. The OA is accordingly dismissed.

There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pj/