CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BENGALURU

ORIGINAL APPLICATION NO.170/00883-884/2017

DATED THIS THE 9TH DAY OF FEBRUARY, 2018

HON'BLE DR.K.B.SURESH …MEMBER(J)
HON'BLE SHRI P.K.PRADHAN …MEMBER(A)

1. Dr.A.Lokesha,
S/o Areningappa,
Aged about 49 years,
Working as Joint Controller,
Office of Finance Officer,
Bangalore University Jnanabharathi,
Bangalore – 560 056.

2. Sri T.Venugopalareddy,
S/o Late K.Thimmappa,
Aged about 54 years,
Working as Financial Advisor,
Sri.Jayadeva Institute of Cardiac
And Vascular and Research,
Bangalore – 560 069. …Applicants

(By Advocate ShriSatish)

Vs.

1. Union of India,
Represented by its Secretary,
Department of Personnel and Training,
Ministry of Personnel, Public Grievances and Pensions,
North Block, Central Secretariat,
Sardar Patel Bhavan, Parliament Street,
SansadMarg, New Delhi – 110 001.

2. Union Public Service Commission,
Represented by its Secretary,
Dholpur House, Shahjahan Road,
Delhi – 110 069.

3. The State of Karnataka,
Represented by its Chief Secretary,
VidhanaSoudha, Bangalore-560 001.

4. The State of Karnataka,
Represented by its Principal Secretary,
Department of Personnel Administrative
And Reforms, VidhanaSoudha,
Bangalore – 560 001.

5. The State of Karnataka,
Represented by its Additional Chief Secretary,
Department of Finance,
VidhanaSoudha,
Bangalore – 560 001. …Respondents

(By Senior Panel Counsel ShriM.V.Rao for Respondent-1, ShriM.Madhusudhan for Respondent-2 and State Government Standing Counsel ShriMahantesh for Respondents-3to5)

O R D E R

HON'BLE SHRI K.B.SURESH, MEMBER(J)

As P.B. Gajendragadkar, J the former Chief Justice of India, said :

"As soon as the democratic state embarks upon the adventure of achieving the ideals of a welfare state, it inevitably turns to law as its created ally in the crusade. The function of the democratic state and

its role assume wider proportions and cover a much larger horizon and in assisting the state to achieve these over expanding objectives, the function and the role of law correspondingly enlarge and cover a wider horizon ..... We reach a stage in the progress of the democratic way of life where law ceases to be passive just as democracy ceases to be passive and the purpose of law like that of democracy becomes dynamic; and that naturally raises the eternal question about the adjustment of the claims of individual liberty and freedom on the one hand, and the claims of social good on the other. It is a duel which a dynamic democracy has to face and it is in the harmonious and rational settlement of this duel that law has to assist democracy."

(P.B. Gajendragadkar, Law, Liberty and Social Justice, Asia Publishing House (1965), Page No. 64)

Therefore, it seems to us, that we must now use harmonious interpretation to resolve this issue as for no fault on their side, the applicants seem to be prejudiced. Therefore what is the background of this issue as the applicants pray that their proposal for promotion to IAS may be considered.

2. On 05.01.2017, Government of India in DOPT addressed a letter No. 14015/11/17-AIS(I) indicating that 3 Non-SCS vacancies are available for promotion to IAS of Karnataka cadre and requesting for preparation of the Select List. By subsequent communications the Government of India as well as the DOPT worked out this proposal and vide letter dated 24.01.2017 the DOPT had requested the Government to send certificate regarding following aspects:

1) **Special specific circumstances necessitating filling up of vacancies under Non-SCS category,**

2) **Availability of sufficient number of eligible Non-SCS officers of outstanding merit and ability,**

3) **Certificate to the effect that the post held by Non-SCS officers who are in the zone of consideration is equivalent**

to the post of Deputy Collector of SCS by the State Government.

3. Thereupon on 10.02.2017 the DOPT had confirmed 3 vacancies for preparation of Select List of 2016 for recruitment by selection to the Karnataka cadre of IAS under the Non-SCS category. As per Regulation 4 of IAS (Appointment by Selection) Regulation, 1997 the State Government was to consider the cases of eligible Non-State Civil Service officers of outstanding merit and ability for appointment to the IAS against the vacancy arisen between 01.01.2016 to 31.12.2016. Thereafter several communications ensued between the Government of India and the Government of Karnataka.

4. Thereupon after discussion internally within the administrative departments and seeking their views in the matter the Government of Karnataka had finally prepared a list. In the meanwhile, on 30.11.2017 3 Non-SCS officers namely Shri T. Venugopala Reddy, Dr. A. Lokesha, Shri K.N. Gangadhara had given a representation to the UPSC to conduct a Screening Committee Meeting as early as possible so that the UPSC can conduct the Selection Committee Meeting in accordance with the IAS Regulation. **By this time the interim order in OA No. 1007/2016 was recalled on 30.10.2017 and thus there**

was no further impediment for their claims to be considered. A copy of this representation was marked to the State Government as well. Thereafter the Select List was issued by the State Government to the UPSC and the UPSC noted certain discrepancies. It mentioned that relating to some candidates for some of the period the ACRs were either missing or not officially accepted. The State of Karnataka thereupon gave a detailed reply explaining the matters and as far as the applicants herein are concerned explained why, whether the ACRs were not accepted as apparently the concerned Hon'ble Minister had demitted office and therefore it was deemed to be accepted or for some reason which are available in the file that treating it as deemed to have been accepted and now the State Government would propose that they have given reasons and reasoning for all these discrepancies and all had been cleared to the fullest extent possible and required under law. **Therefore the State Government would submit in Court that all the formalities which are required at their end have now been completed.**

5. Following this the Chief Secretary of Government of Karnataka vide communication dated 29.12.2017 issued a letter to the Secretary of UPSC with a copy marked to the concerned Under Secretary in

charge of this selection that all lacunaes are now cleared for the preparation of Select List of 2016 for selection of Non-SCS officers for appointment to the Indian Administrative Service of Karnataka cadre which can now be considered under selection regulations which she held that are mandatory to be required to be held by the end of December, 2017. Therefore the Chief Secretary requested the UPSC to convene the SCM for preparation of Select List of 2016 for appointment to IAS of Karnataka cadre. A copy of this was marked to the DOPT and to the concerned Under Secretary in charge of AIS.

6. On 22.12.2017, the Chief Secretary of Government of Karnataka issued a letter to Secretary, UPSC as No. DPAR 02 SAS 2017 which says "***With reference to the above, I am directed to invite your attention to the letter dated 10.02.2017 referred to above, wherein, the Government of India, Department of Personnel and Training, have determined 03 (three) vacancies for preparing the Select List of 2016 under Non-SCS category for appointment to IAS of Karnataka cadre. In view of some litigation we could not process the file earlier. Now the State Government is in the process of finalizing the proposal and the proposal will be sent to UPSC shortly for further necessary action by December end***." The

UPSC on the other hand would say in their reply that they act under the assignment granted to them under Article 320 of the Constitution and by provisions of the All India Services Act, 1951 and vide Rule 8 sub clause 2 of IAS Recruitment Rules, 1954 and the IAS (Appointment by selection) Regulation 1997 induction of Non-SCS into IAS is to be resorted "***make recruitment to the service any person of outstanding ability and merit serving in connection with the affairs of the State who is not a member of State Civil Service of that State***." They would thus say that if any special circumstance is brought to the notice of the Government of India by the State Government and in such circumstance Non-SCS officers are to be promoted into the IAS. This without any doubt is in consonance with the theory of greatest good to the public must be the aim and focus of a fair governance system. In order that the most outstanding in merit and ability do not get sidelined special provisions had been enacted by the regulations and it may be noted that as early as 15.01.2017 itself the Government of India has been alerted to this issue and had perused the matter but then the completion could not be attained during the interregnum because of the pendency of some litigation. The UPSC also would say in their reply that the Committee have to

meet every year to consider the proposal of the State Government made under Regulation 4 and the suitability of the person for appointment to the service shall be determined by scrutiny of service records and personal interview. They would say that 50% weightage of 50 marks will be given to service records with particular reference to ACRs for the 5 preceding years and 50% weightage of 50 marks will be given for personal interview. In addition, a minimum of 50% marks in each of the components, i.e., the ACR assessment and the personal interview must be separately obtained by the Non-SCS officer for qualifying for selection for appointment to the IAS under the selection regulation. Therefore, needless to say, the State Government having prepared an appropriate list for consideration and had going by the records produced before us scrupulously examined all the matters involved in order to submit 3x5=15 names for consideration by the SCM. **It appears to us that these persons have crossed over a qualificatory bar and in accordance with the regulations and the administrative experience of the Government became eligible for consideration and thereby attained a legitimate expectation for being considered**. The UPSC would say that vide letter dated 26.12.2017 the State Government had sent a proposal for preparation

of Select List of 2016 for selection of Non-SCS officers for appointment to the IAS of Karnataka cadre in view of the order dated 15.12.2017 of the Hon'ble CAT in O.A. No. 170/00750/2017 filed by ShriVenugopala Reddy wherein the Hon'ble Tribunal had directed to complete the process for appointment to IAS against 3 vacancies determined for the Select List of 2016 in respect of Non-SCS officers of Karnataka. The UPSC would say that some deficiencies were observed in the ACR Dossiers of some of the eligible officers and therefore the State Government vide letter dated 27.12.2017 were accepted to rectify the deficiency thus the proposal of convening the said SCM can be considered as per provisions of the selection regulations. They would say that on 29.12.2017 the State Government had issued a rectification proposal after having rectified all the deficiencies and had requested to hold a SCM. Therefore the UPSC would say that as 29.12.2017 was the last working day of the year it is not practicable to hold the SCM. The State Government in their reply would contend that in OA No. 170/01007/2016 filed by Dr.SangeethaGajananBhat the Tribunal had issued an interim order on 19.10.2017 wherein it is said "*It is made clear that till the matters finally settled no action will be taken in this regard by any authorities*."

The issue in that case was that the Union Government had earlier circulated a proposal to indicate that the Non-SCS officers or SCS officers also must be selected on the basis of a selection process which is mandatorily required wherein academic prominence was to be the yardstick rather than experience in the field. Since the Union of India had circulated such a note it was felt that the matter should engage our attention and therefore we had requested the State Government, the Union Government and the UPSC to provide their views. After detailed hearing it came out that, even though the proposal may be on the face of it good, none of the State Governments have agreed to this proposal and in fact many have actively opposed it giving reasons. We also tried to find out whether this was an implementable proposal and held discussions with many senior officials who are apprised of this matter and finally we had to hold that it may not be entirely practical to bring it into fruition even though we felt that the concerned applicant had brought out one credible issue. So, cases of these genre were clubbed together and disposed off on 15.12.2017. **But the interim order was vacated on 30.10.2017 itself and from that date there is no obstacle**

7. Therefore the question is only:

1) **What is the mandatory nature of this 31st of December deadline?**

2) **Are there exceptions to this rule?**

3) **Are there any obstacles to the applicants consideration after 30.10.2017?**

8. We searched and researched on the stand to be adopted by a sensitive administrative adjudicator and Professor Robson provides the answer on this. ***In all civilised countries the judge must, in fact, possess certain conceptions of what is socially desirable, or at least acceptable, and his decisions, when occasions arise, must be guided by these conceptions. In this sense, judges are and must be biased …. It is a simple fact that a man who had not a standard of moral values which approximated broadly to the accepted opinions of the day, who had no beliefs as to what is harmful to society and what beneficial, who***

had no bias in favour of marriage as against promiscuous sexual relations, honesty as against deceit, truthfulness as against lying; who did not think wealth better than poverty, courage better than cowardice, constitutional Government more desirable than anarchy, would not be tolerated as a judge on the bench of any Western country.

Jaffe expressed the same opinion when he said: 'It is a sine qua non of good administration that it believes in the rightness and worth of the laws that it be prepared to bring to the task zeal and astuteness in finding out and making effective those purposes.'

(Professor Robson, Justice and Administrative Law, Greenwood Press (1951), Page 413)

9. The State Government would contend that it had acted within the time which it understood to be relevant to the issue. The UPSC accept it had received the proposal from the State Government well in

time but unfortunately that was the start of the vacation period for them and therefore it was not possible that it should be processed within the time limit.

10. Therefore what are the issues involved?

Policy issues suffers from both under-estimation and over-estimation of the role of the judges. In the common law tradition, the judges are used to having to make policy decisions even in the absence of a Bill of Rights. This happens where a judge has to interpret a statute, as well as in expounding the principles of common law. In *Shaw v DDP* reported in (1962) AC 220, ***the judges openly declared their intention to act as the guardians of moral values while expounding a principle of common law. Indeed, in the common law tradition the judges and legislators are partners in the law-making.***

11. The Hon'ble Apex Court in Canara Bank Vs. DebasisDas reported in (2003) 4 SCC 557 held "***Natural justice is another name for common sense justice. Rules of natural justice are not codified canons. But they are principles ingrained into the conscience of man. Natural justice is the administration of***

justice in a common sense liberal way. Justice is based substantially on natural ideals and human values. The administration of justice is to be freed from the narrow and restricted considerations which are usually associated with a formulated law involving linguistic technicalities and grammatical niceties." Therefore the Hon'ble Apex Court espouses of the cause of common sense in administrative decision. The Hon'ble Apex court in DTC Vs. DTC Mazdoor Congress reported in AIR 1991 SC 101 held "***the principles of natural justice has been held to be an integral part of the right to equality as mentioned in Article 14. The Rules of natural justice do not supplant but supplement the rules and regulations***". Re HK by Lord Parker C.J. (1967) 2 QB 617 "***The obligation to act fairly on the part of the administrative authorities was evolved to ensure the rule of law and to prevent failure of justice***". Hon'ble Apex Court in DevDutta V. UOI reported in AIR 2008 SC 2513 held that "***the concept of fairness requires fairness in action. Natural justice has an expanding content and it is not stagnant***." In UP Junior Doctors action committee Vs. B.Sheetal reported in AIR 1991 SC 909 the Hon'ble Apex Court held "***Such rules of natural justice can also***

included in case of emergency. ***Such rules can also be included in case of impractibility, in case of confidentiality and in cases of academic adjudicationetc."*** The Hon'ble Apex Court in A.K.Kraipak v. U.O.I reported in AIR 1970 SC 150 held "***If the purpose of rules of natural justice is to prevent miscarriage of justice, one fails to see why those rules should be made inapplicable to administrative inquiries***". In case of Kesar Enterprises v. State of U.P. reported in AIR 2011 SC 2709 the Hon'ble Apex Court held "***In other words principle of natural justice is attracted where there is some right which is likely to be affected by any act of the administration including a legitimate expectation. The procedure to be followed is not a matter of secondary importance and in the broadest sense natural justice simply indicates the sense of what is right and wrong. Principles of natural justice checks arbitrary exercise of power by State or its functionaries. They aim at prevention os miscarriage of justice***."

12. Therefore, in this context what is legitimate expectation. In R.K.Mittal v. State of U.P. reported in (2012) 2 SCC 232 the Hon'ble Apex court held "***Legitimate expectation is reasonable expectation***". In Union of India and Ors.Vs.Hindustan Development

Corporation and Ors. (1993) 3 SCC 499 the Hon'ble Apex court held "***For the application of this doctrine, there must be representation and reliance on the representation and resultant detriment. The expectation must be legitimate or reasonable. Legitimate of expectation can be inferred only if it is found on the sanction of law or custom or an established procedure followed in a natural and regular sequence. Such representation may arise from the words or conduct. For a legitimate expectation to arise, the decision of the administrative authority must affect the person by drpriving him of some benefit or advantage which either he had in the past been permitted by the decision maker to enjoy and which can legitimately expect to be permitted to confine to do until these has been communicated to him some rational grounds for withdrawing it***"

13. In this context what is the importance of the concept of proportionality in this matter. In UOI Vs. G.Ganayutham reported in AIR 1997 SC 3387 the Hon'ble Apex Court held "***where in the case of administrative or executive action affecting fundamental freedoms, the Courts in our country will apply the principle of proportionality and assume a primary role, is left open, to be***

decided in an appropriate case where such action is alleged to offend fundamental freedoms." In UOI Vs. Ramesh Ram and others reported in 2010 7 SCC 234 the Hon'ble Apex court held "***Affirmative action measures should be scruitinised as per the standard of proportionality. This means that the criteria for any form of differential treatment should bear a rational correlation with a legitimate governmental objective***". The applicant assert that they have legitimate expectation to be considered through the year long selection process and having come out successful they were prevented only by interim order passed in another case which actually had no bearing on their being selected and had only tangential involvement. They would say that judicial interdiction is also available at judicial review. In Maharao Sahib v. UOI and others reported in AIR 1985 SC 1650 the Hon'ble Apex Court held "***The power of judicial review to strike at excess or malafides is always there for vigilant exercise***". In EpuruSudhakar and Another v. government of Andhra Pradesh and others reported in (2006) 8 SCC 16 the Hon'ble Apex court held "***Every prerogative has to be subject to the Rule of Law. That rule cannot be compromised on the grounds of political expediency. To go by such considerations would be subversive***

of the fundamental principles of the Rule of Law and it would amount to setting a dangerous precedent. The Rule of Law principle comprises a requirement of Government according to law. The ethos of Government according to law requires the prerogative to be exercised in a manner which is consistent with the basic principle of fairness and certainty". That the applicant lament that in all fairness they ought to have been considered for selection by now. For no fault of theirs their selection is now in jeopardy. In K.K.BhaskaranVs. State rep. by its Secretary, Tamil Nadu and others reported in 2011 SC 1485 the Hon'ble Apex Court held "***The interpretation of constitutional provisions has to be as per social setting of country and not in abstract. Court must take into consideration the economic realities and aspirations of the people and must further the social interest***". The applicant lament that it is for none of their fault the selection could not be completed in one year. They say for that reason alone beyond the pale of their possibility there may not be prejudice against them. In Aruna Roy v. UOI reported in AIR 2002 SC 3176 the Hon'ble Apex court held "***Bereft of moral values secular society or democracy may not survive***".

14. It is interesting to note that, at this point of time the State Government maintains the stand that in fact they have done their very best to promote the issue from 15.01.2017. They had been trying to get this matter settled one way or the other but by going through the record we find that some of the department have not given full details of the personnel to be included in the list of persons to be selected as late as 21st December. They were still searching for ACRs of all these people and explanation to get and by the time they settled down to get it almost one year had passed by and it has become 29.12.2017.

15. It appears that UPSC would say that they have also done their level best to resolve this issue as they have been agitating with the State Government to get the matter settled and issues clarified but the State Government has not acted.

16. Both these respondents would say that the delay was only for the reason of an interim order granted in OA No.1007/2016 by this Tribunal and that is why the matter got delayed. This OA was filed by one Dr.SangeethaGajananBhat who is a non-SCS officer who claim the rights on the proposal issued by the Union Government to conduct

a merit based assessment of persons to be selected and certain methodology was also announced as the whole selection process had been delineated in this new rules slightly on draft rules to be implemented immediately. We had to get clarifications on it from the respondents basically from DOPT in Government of India and UPSC and State Government. This contention of the applicant in OA No.1007/2016 was to an extent supported by the decision of VimalKumari Vs. State of Haryana and Others reported in 1998 4 SCC 114 indicating that in an emergency situation even a draft recruitment rules can be relied on. To clarify a situation as it was posted and this would lead to a greater position in public interest we had **issued notice-notice alone** and not an interim order on 09.12.2016 and posted it to 16.01.2017. But no reply was filed by any of the respondents on 16.01.2017. It may be noted in this connection that on 15.01.2017 the process of selection was started with the State Government of Karnataka.

17. Therefore this matter was posted on 28.02.2017 on which date also no reply was served. Therefore a special notice was issued to Advocate General of Karnataka and posted the matter to 27.03.2017.

On 27.03.2017 no reply was forth coming. Same was the situation on 21.04.2017 and 01.06.2017.

18. Thereafter, We had taken up the matter again on 03.07.2017 when we passed the following order:

"On 09.12.2016, we had issued notice by dasti to the respondents. Thereafter on 16.01.2017, we gave some more time to file reply. On 28.02.2017 since we found the notice had not yet returned we had directed the applicant to serve an additional notice on Advocate General of Karnataka. Thereafter the matter was taken up on 27.03.2017, then also we found that notices had not returned. On 21.04.2017 also acknowledgement is awaited and on 01.06.2017 also notice was returned and on today also nobody on the side of the respondents is present. Therefore we will direct ShriM.V.Rao Senior Panel Counsel, to take notice on behalf of 1st Respondent-DOPT, Shri M. Rajakumar, Standing Counsel for UPSC, to take notice on behalf of UPSC and Smt.RafeeUnnisa, learned counsel to take notice on behalf of 3rd and 4th Respondents. Applicant to serve an additional copy of the OA to these three counsels today. Four weeks for reply, two weeks for rejoinder.Post on 30.08.2017."

19. On 30.08.2017ShriM.V.Rao, learned Counsel appeared for DOPT. No representation for Respondents-2-5. Thereafter it was posted on 07.09.2017. On this date **we passed the following order on "MA No.170/00317/2017 for staying the operation and**

implementation of UO Note is taken up. Smt. RafeeUnnisa, learned counsel for State Government seeks some more time to file a reply. Two weeks allowed. But then no action shall be taken on that behalf until an order is passed by the Tribunal. ShriM.V.Rao, learned counsel for R1, submits that the matter has been engaging the attention of DOPT from 2013 onwards and probably it is because of the pending litigation. ShriM.V.Rao seeks some more time to file reply. We grant two weeks time. MA No.170/00318/2017 seeking permission to file additional documents is allowed. Post for specific hearing on 19.10.2017."

20. On 19.10.2017 we passed the following order:

"Smt. RafeeUnnisa, learned Counsel appearing for the State Government submits that they have no role to play in the matter. The matter is between UPSC and the Union Government. ShriSatish, learned Counsel for the applicant would say that State Government had in a span of one day cleared the names of 34 people and had sent to the UPSC for appointment to IAS. In the circumstances, the State Government also need to file reply explaining the merit or demerit in the notification promulgated as Annexure A15. They shall file a reply within next two weeks explaining the stand on the issue whether implemented or not implemented as the case may be.

ShriRajakumar, learned Counsel appearing for Respondnet-2 submits that they had referred the issue to DOPT for their opinion but still there is no response. They are also need to explain whether the new scheme is for the benefit of greater public good or in their opinion as they are the concerned authority charged with the responsibility of selection of these people. They shall also file a reply within next two weeks. ShriM.V.Rao, learned Counsel appearing for DOPT would submit that DOPT has not yet taken a decision nor communicated it to him. They shall also file reply within two weeks next. On this issue all the Counsels are charged with responsibility or informing their parties and obtaining their response.

Interim order to continue until then.

The authorities shall also explain the difference in SCS and non-SCS category in Clause-7 of Annexure A15 and providing 30% marks for written examination for SCS and 55% for non-SCS category and length of service of 25% to SCS and nil for service to non-SCS category. The rationale of this should be explained.

It is made clear that till the matter is finally settled no action will be taken in this regard by any authorities.

The applicant also to explain how he can challenge the appointment of SCS officers as he is a non-SCS officer by an affidavit. Post on 23.11.2017.

A copy of this order may be given to the Counsel for the parties."

21. Thereafter we had taken up the matter on 26.10.2017 on the MA being filed and we passed the following order:

"Learned Counsel for both sides are present. We had taken up the matter today and heard the matter for some time. Some of the respondents have not filed reply and they assure that they will be filing reply within 2 or 3 days.

Post the matter on 31.10.2017 for hearing and disposal.

MA No.444/2017 for advancement, MA No.445/2017 for impleading additional respondents, MA No.447/2017 for impleading additional respondents are allowed."

22. Thereafter, we had taken up the matter on 31.10.2017 and passed the following order:

"Learned counsel for all the parties are present. The learned Advocate General appearing for the State of Karnataka requests for a notification of the interim order. We had specifically queried ShriSatish, learned counsel appearing for the applicant, as to whether he has any objection. All he would say is that he cannot conceive a stand on this issue. He would place before me a decision of the Hon'ble Apex Court in VimalKumari Vs. State of Haryana & Others reported in 1998 4 SCC 114 relating to the efficacy of the draft Recruitment Rules and when on an emergency it can be followed to meet a particular situation. Therefore we had queried him as to whether any emergent situation exists here is relation to the

competitive examination to be held which is not even in a draft from even now but had been placed in the internet for the people to place their objections to it. Therefore not even a draft recruitment policy is now in force. Therefore, the earlier interim order granted in favour of the applicant is now recalled. Post for final hearing on 06.11.2017.

A copy of this order to be issued to learned counsel for all the parties."

23. Therefore it is noted that interim order granted had been recalled on 31.10.2017 and there was no impediment for either, for the State Government, Union Government or the UPSC to act further.

24. Thereafter on 06.11.2017 we had reserved the matter for judgment and on 15.12.2017 in conjunction with several other cases this OA was taken up for judgment and was dismissed. Therefore it must be understood that on 31.10.2017 itself the impediment against the Governmental action had ceased to be in operation and when we posted for the final hearing on 15.12.2017 no such issue was in existence at that moment of time.

25. At this point of time the UPSC would lament that had they got the matter earlier they would have settled the matter even though on 31.10.2017 the interim order was recalled leaving the field open, only

the State Government sent the proposal they cannot ask, on a query as to what they had done in the matter and whether they asked for any proposal there was no answer. The State Government would say that they had to go through voluminous records to complete the clarifications sought earlier also and by 21st December the Chief Secretary of Karnataka had informed UPSC that they had immediately sent a proposal and by 27th December all process were complete.

26. At this time the UPSC maintain that unfortunately for them by this time the holidays season had started, they could not work at it. Union Government maintain the UPSC had finalised the selection they had a minimal role and they had no objection whatsoever the matter as the matter is between the State Government and the UPSC.

27. At this point of time, even though it is not fully explained, a notion is put forward that probably if the Court had not granted an interim order earlier the matter could have been resolved at that point of time itself. They would say that from 15.01.2017 onwards both UPSC and the State Government were at it and only because some of the administrative departments in the State Government of Karnataka were not fully vigilant that this delay occurred.

28. Now therefore we will take up as it is the fault of the Court. Now if it is the fault of the Court can anyone be prejudiced by mistake of Court. For this we need to examine what is the mistake on the part of the Court.

29. As explained in the earlier paragraphs the interim order came to be passed as none of the respondents were willing to file a reply even after specific exortation. Even when they filed their reply they had nothing to say against the Hon'ble Supreme Court order in VimalKumari's case. But then it was the Court who researched it and found out that almost all of the states have opposed this proposal as an impractical one. But then we had taken credence from the fact that if such a proposal is to be implemented it would have bettered the services for the common people and therefore in greater public interest. Therefore the interim order was in force only for a few weeks that too till 31.10.2017 when the interim order was recalled and copy issued to all the counsels. Therefore there was nothing to prevent them from acting from that period onwards and going by the normal way of working of this Court, the intention of the Court had been made clear to everyone at that point of time itself. Therefore there was no impediment at all after 31.10.2017, at least. But then there were

several other connected matters also which had to be disposed off together and this was done on 15.12.2017. Therefore nothing remained against the UPSC and the State Government for completing their functions. It is to be noted in this connection that only after 21.12.2017 had the State Government issued the actual proposal which was returned for want of certain clarifications. These clarifications and explanation were issued only on 27.12.2017 by which time the UPSC claims that their holidays have started and there is nobody to work at the proposal at the UPSC at that time. Therefore it does not appear prima facie that there was any fault on the side of the Court but even if it is to be assumed that there is fault on the side of the Court it is not an insurmountable obstacle as we will explain in the coming paragraphs. Let us therefore explain the legal parameters of this limited issue. We will explain the legal situation one by one and then explain it in connection with the factual situation available.

30. The Hon'ble Apex Court in SheshraoJanglujiBagdeVs. Govindrao reported in AIR 1991 SC had held "***Any change in the rules which affects the right to be considered for promotion would offend Articles 14 and 16 but the petitioner was given the benefit of a retrospective amendment which took place during***

the pendency of the litigation." Therefore a retrospective operation of these issues is eminently possible. The Hon'ble Apex Court in Union of India Vs. Tejinder Singh reported in 1991 4 SCC 129 held that "***the mere pendency of a departmental proceeding at any stage is not sufficient for not considering an employee's case for promotion or to withhold his promotion.***" The pendency of a departmental enquiry is the highest obstacle that can be placed against promotion of an employee. The Hon'ble Apex Court had clearly held that even that will not be an obstacle. The Hon'ble Apex Court in State of Haryana Vs. Piara reported in 1992 (4) SCC 118 held "***The State should not exploit its employees nor should it take advantage of their helplessness***." It is stated at the bar by the applicant that they are now helpless for no fault of theirs. Therefore what is the solution for this dilemma. Therefore what is the right of the applicants is the question. The Hon'ble Apex Court in N.T. Devin Katti Vs. Karnataka Public Services Commission reported in 1990 3 SCC 157 held "***Though a person by making an application for a post pursuant to an advertisement does not require any vested right to be appointed to that post, he acquires a right to be considered***

for selection." Therefore the applicants have already acquired a right to be considered. The question is only when.

31. Therefore what are the parameters under which this consideration is to be made. The Hon'ble Apex Court in Shrilekha Vs. State of Uttar Pradesh reported in 1991 1 SCC 212 held "***Where an administrative action is prima facie unreasonable because there is no discernible principle to justify it the burden is shifted to the State to show that the impugned decision is an informed action, in such a case, if the reasons are not recorded the decision to be struck down as violative of Article 14 of the Constitution***." Therefore the respondents are enjoined to take a reasonable stand in the matter. The reasonableness should emanate from the point of view of the applicants also as to what might be their fate. In other words, the principles of Wednesbury reasonableness and proportionality has to be followed by the respondents before their action or inaction.

32. The applicants claim that a legitimate expectation visits them as from their end, because of their qualifications and merit they were selected to be in a list for a further selection and thereafter after having

gone through a tedious selection process lasting for almost an year they acquired a legitimate expectation. The Hon'ble Apex Court in NarendraVs. Union of India reported in AIR 1989 SC 2138 held "***Under the doctrine of legitimate expectation, even a non-statutory policy or guideline issued by the State would be enforceable against the State.***" Therefore provisions of Rule 4, 7 and 8 comes to the fore in aid of the applicant.

33. The applicant claims that they had been unfairly denied by now as the stand taken by the UPSC is that they seem to believe their hands are now tied as they seem to think that there is a barrier of 31.12.2017 which they think that they cannot cross. The Hon'ble Apex Court in Nally Vs. State of Bihar reported in 1992 2 SCC 48 held "***The requirement of fairness implies that even an administrative authority must not act arbitrarily or capriciously and must not come to the conclusion which is perverse or is such that no reasonable body of persons properly informed can arrive at.***" Therefore what is the reasonable stand that to be taken. Nobody can deny that the applicant had no role to play in the delay. They were always agitating and in fact in November, 2017 itself they had requested on a representation to the UPSC of which a copy had been

addressed to the State Government also to take up the matter immediately and therefore they had prima facie done all they could do in the circumstances. And what is the reasonable ground to be taken by the selecting authorities in such a case. The reasonable stand that could be taken is only that **the fundamentals of the issue must be grasped and minor technicalities must be eschewed.**

34. The applicant would contend that when the regulations were issued for promotion to IAS through selection the applicant on conforming to the qualificatory pattern prescribed came under the protection of rule of law. The Hon'ble Apex Court in State of Orissa Vs. MamataMohanty reported in 2011 3 SCC 436 held "***An action of the State or instrumentalities should not only be fair, legitimate and aboveboard but would also be without any affection or aversion. It should neither be suggestive of discrimination nor even give an impression of bias, favouritism and nepotism***." In this case, no one will be accusing any of the authorities of bias, favouritism or nepotism but the inaction of the respondents is suggestive of discrimination as they had time from 31.10.2017 to finalize the issue and even if they were apprehensive that the issued had not been finally settled even though the interim order was recalled on

31.10.2017 after hearing all the sides at least by 15.12.2017 when the OA 1007/2016 was dismissed there remain no obstacle for concerted action by the respondents that has resulted in discrimination against the applicant as service and seniority in Indian Administrative Service is on an All India scale. If in other States this had been concluded and it has not been concluded in Karnataka it will prejudicially affect the applicants in any case. It is therefore that the Hon'ble Apex Court held that all action of the Government and its instrumentalities should be fair, legitimate and aboveboard. Therefore what is the right of the applicants to be considered. The Hon'ble Apex Court in Union of India Vs. Hemraj Singh Chauhan reported in 2010 SC 1682 held that the right of eligible employees for consideration of promotion is virtually a part of Fundamental Right which we will quote below.

35. Hon'ble Apex Court in Unni Krishnan vs. State of Andhrapradesh, held that a right to rank is a fundamental right. Even though it is not expressly stated. New right can be read into or inferred from rights stated in para 14 of the Constitution. The Court's reasoning was based on the premise that the fundamental rights and the Directive principles of State Policy are supplementary and complementary to each other. Article 39 provides for enhancement of

personnel and career prospects for right in tune with Article 14 and 16 and and while Article 13 of the Constitution provides for a scenario not as provided by the respondents but as provided by the applicant. This decision is reported in AIR Satant Singh vs. Assistant Passport Officer reported in AIR 1967 SC 1836 as **"In the case of unchannelled arbitrary discretion, discrimination is writ large on the fact of it. Such a discretion patently violates the doctrine of equality, for the difference in the treatment of person rests solely on the arbitrary selection of the executive."**

36. Dealing with discretionary powers of Government and its authorities, Hon'ble High Court of Madras held in Mohambaram vs. Jayavelu AIR 1970 Madras 63 at page 73 : **"There is no such thing as absolute or untrammelled discretion, the nursery of despotic power, in a democracy based on the rule of law"**

37. The Hon'ble Apex Court in B. Amrutha Lakshmi Vs. State of Andhra Pradesh and Others and connected cases had held "***Appellant entitled to positive declaration viz. That she and persons similarly situated were entitled to be considered by the Selection Committee***".

38. But in this case, by the time the matter reached Hon'ble Apex Court, selection was over years back and selectees were already appointed. So the Hon'ble Apex Court had to impose heavy costs on the concerned officials. But in this case the proposal was taken up for selection to the 2016 list by the UPSC only on 27.12.2017.

39. In Union of India Vs. VipinchandraHiralal Shah the Hon'ble Apex Court held "***The relevant provisions contained in Regulation 5, as in force in 1980, were as under:-***

"Regulation 5.

(1) Each Committee shall ordinarily meet at intervals not exceeding one year and prepare a list of such members of the State Civil Service as are held by them to be suitable for promotion to the Service. The number of members of the State Civil Service, included in the list shall not be more than twice the number of substantial vacancies anticipated in the course of the period of twelve months, commencing from the date of preparation of the list, in the posts available for them under Rule 9 of the Recruitment Rules, or 10 percent of the Senior posts shown against items 1 and 2 of the cadre schedule of each State of group of States, whichever is greater.

(2) The Committee shall consider for inclusion in the said list, the cases of members of the State Civil Services in the order of a seniority in that Service or a member which is equal to five times the number referred in sub-regulation (1).

Provided that such restriction shall not apply in respect of a State where the total number of eligible officers is less than fie times the maximum permissible size of the Select List and in such a case the Committee shall consider all the eligible officers.

Provided further that in computing the number of inclusion in the field of consideration, the number of officers referred to in subregulation (3) shall be excluded.

Provided also that the Committee shall not consider the case of a member of a State Civil Service unless, on the first day of January, of the year in which it means he is substantial in the State Civil Service and has completed not less than eight years of continuous service (whether officiating or substantive) in the post of Deputy Collector or in any other post or posts declared equivalent thereto by the State Government.

Provided also that in respect of any released Emergency Commissioned or short service Commissioned Officers

appointed to the State Civil Service, eight years of continuous service as required under the preceding proviso shall be counted from the deemed date of their appointment to that service, subject to the condition that such officers shall be eligible for consideration if they have completed not less than four years of actual continuous service, on the first day of the January of the year in which the committee meets, in the post of Deputy Collector or in any other post or posts declared equivalent thereto by the State Government. Explanation--The powers of the State Government under the third proviso to this sub-regulation shall be exercised in relation to the members of the State Civil Service of a constituent State, by the Government of that State.

(2A) X XX (3) The Committee shall not consider the cases of the members of the State Civil Service, who have attained the age of 52 years on the first day of January of the year in which it meets.

Provided that a member of the State Civil Service, whose name appears in the Select List in force immediately before the date of the meeting of the Committee, shall be considered for inclusion in the fresh list, to be prepared by the Committee, even if he has in the meanwhile attained the age of 52 years.

Provided further that a member of the State Civil Service who has attained the age of 54 years on the first day of January of the year in which the Committee meet shall be considered by the Committee, if he was eligible for consideration on the first day of January of the year or of any of the years immediately preceding the year in which such meeting is held but could not be considered as no meeting of the Committee was hold during such preceding year or years.

(4) X X X

(5) X X X

(6) The list so prepared shall be reviewed and revised every year.

(7) X X X

During the period 1980 to 1986 several amendments were made in the Regulations. In clause (1) for the words "10 percent" the words "5 percent" were substituted. In clause (2) instead of the words "five times" the words "three times" were substituted. In clause (3) the words "52 years" were substituted by the words "54 years", and the second proviso was inserted.

A perusal of Regulation 5 shows that clause (1) required that the Selection Committee shall ordinarily meet at intervals not exceeding one year and prepare a list of such members of the State Civil Service as are held by them to be suitable for promotion to the Service. The said clause also required that the number of the members of the State Civil Service included in the list shall not be more than twice the number of substantive vacancies anticipated in the course of the period of twelve months commencing from the date of preparation of the list. Under clause (2) the Selection Committee was required to consider the cases of members of State Civil Service in the order of a seniority in that service of a number which was equal to five times (subsequently reduced to three times) the number referred in clause (1). Under the third proviso to clause (2) it was prescribed that the Selection Committee shall no consider the case of member of the State Civil Service unless on the first day of January of the year in which it meets his is substantive in State Civil Service and has completed not less than eight years of continuous service (whether officiating substantive) in the post of Deputy Collector or in other post or posts declared

equivalent thereto by the State Government. In respect of released Emergency Commissioned or short service Commissioned officers appointed to the State Civil Service the period of continuous service was four years under the fourth proviso to clause (2). In view of clause (3) cases of members of the State Civil Service who had attained the age of 52 years (subsequently raised to 54 years) on the first day of January of the year in which the Selection Committee meets were not to be considered by the Committee. Under clause (6) the list prepared by the Selection Committee was required to be reviewed and revised every year.

If clause (1) is read with the other provisions in Regulation 5 referred to above the inference is inevitable that the requirement in clause (1) of Regulation 5 that the Selection Committee shall meet at intervals not exceeding one year and prepare a list of members of the State Civil Service who are suitable for promotion in the Service was intended to be mandatory in nature because the eligibility of the persons to be considered both in the matter of length of service and are under clauses (2) and (3) is with reference to the first date of January of the year in which

the Selection Committee meets and the number of members of the State Civil Service to be considered for selection is also linked with the number of substantive vacancies anticipated in the course of the period of twelve months commencing from the date of preparation of the list. We are, therefore of the view that the requirement prescribed in sub-regulation (1) of Regulation 5 regarding the Committees writing at intervals not exceeding one year and preparing a list of such members of the State Civil Service who are suitable for promotion to the Services was a mandatory requirement which had to be followed. The earlier decisions of this Court also lend support to this view.

In Union of India v. Mohan LalCapoor& Ors.,1974 (1) SCR 797, this Court was construing Regulations 4 and 5 of the Indian Administrative Service/Indian Police Service (Appointment by Promotion) Regulations, 1955, as they stood at that time. The provisions in those regulations were similar to those contained in Regulation 5 referred to above. In Regulation 4 (1) there was a requirement that the Committee shall meet at intervals not exceeding one year and consider the cases of all substantive members of the State Civil/Police Service who on the first day of

January of the year had completed not less than eight years of continuous service. Under Regulation 4(2) it was prescribed that the Committee shall not consider the case of members of the State Civil/Police Service who had attained the age of 52 years on the first day of the January of the year in which the meeting of the Committee is held. Regulation 5(4) prescribed that the list so prepared shall be reviewed and revised every year. Mathew in his concurring judgment, has said :-

"The purpose of an annual revision or revision or review is to make an assessment of the merit and suitability of all the then eligible candidates and make a fresh list of the required number of the most suitable candidates from among them. In other words, the purpose of the annual review or revision of the select list is to prepare a list and to include therein the required number of the most suitable persons from among all the then eligible candidates- [P. 802] "When Regulation 5(4) says that the list prepared in accordance with Regulation 5(1) shall be reviewed or revised every year, it really means that there must be an assessment of the merit and suitability of all the eligible members every year. The paramount duty cast upon the

Committee to draw up a list under Regulation 5(1) of such members of the State Civil/Police Service as satisfy the condition under Regulation 4 and as are held by the Committee to be suitable for promotion to the service would be discharged only if the Committee makes the selection from all the eligible candidates every year."

[p. 802] Beg. J., as the learned Chief Justice then was, he said:-

"The required number has thus to be selected by a comparison of merits of all the eligible candidates of each year."

[p.818] Clause (1) of Regulation 5 of the Regulations differs from clause (1) of Regulation 4 which was considered by this Court in Mohan LalCapoor (supra) in the sense that the word "ordinarily" found in clause (1) of Regulation 5 was not contained in clause (1) of Regulation 5 was not contained in clause (1) of Regulation 4. The insertion of the word "ordinarily" does not, in our opinion, alter the intendment underlying the provision. It only means that unless there are good reasons for not doing so, the Selection Committee shall meet every year for making the selection.

In Syed Khalid Rizvi&Ors. v. Union of India &Ors., 1993 Supp. (3) SCC 575, this Court was constructing the provisions of

Regulation 5 of the Indian Police Service (Appointment by Promotion) Regulations, 1995 which is in pari material with clause (1) of Regulation 5 and contained the word "ordinarily", It was observed :-

".....since the preparation of the select list is the foundation for promotion and its omission impinges upon the legitimate expectation of promotee officers for consideration of their claim for promotion as IPS officers, the preparation of the select-list must be constructed to be mandatory. The Committee should, therefore, meet every year and prepare the select-list and be reviewed and revised from time to time as exigencies demand." [p. 586] "Unless the select-list is made annually and reviewed and revised from time to time, the promotee officers would stand to lose their chances of consideration for promotion which would be a legitimate expectation. This Court in Mohan LalCapoor case held that the Committee shall prepare every year the select-list and the list must be submitted to the UPSC by the State Government for approval and thereafter appointment shall be made in accordance with the rules. We have, therefore, no hesitation to hold that preparation of the select-list every year is

mandatory. It would subserve the object of the Act and the rules and afford an higher opportunity to the promotee officers to reach higher echelons of the service."

[p. 605] It must, therefore, held that in view of the provisions contained in Regulation 5, unless there is a good reason for not doing so, the Selection Committee is required to meet every year for the purpose of making the selection from amongst State Civil Service officers who fulfill the conditions regarding eligibility on the first day of the January of the year in which the Committee meets and fall within the zone of consideration as prescribed in clause (2) of Regulation 5. The failure on the part of the Selection Committee to meet during a particular year would not dispense with the requirement of preparing the Select List for that year. If for any reason the Selection Committee when it meets next, should, while making the selection, prepare a separate list for each year keeping in view the number of vacancies in that year after considering the State Civil Service officers who were eligible and fall within the zone of consideration for selection in that year.

In the present case, the Selection Committee did not meet during the years 1980 to 1985 and it met in December 1986/January 1987 and a Consolidated Select List was prepared for the vacancies of the years 1980 to 1986. There was thus a failure to comply with the mandatory requirement of Regulation 5 of the Regulations. In Syed Khalid Rizvi (supra) select lists had not been prepared for the years 1971, 1975, 1976, 1979 and 1980. During the pendency of the appeal in this Court the State Government was directed to prepare the select list on national basis for the said years and select lists were then prepared. In the instant case, State Civil Service officers who were selected in the select list prepared in December 1986/January 1987 have not been impleaded as parties and, therefore, their appointment to the Service cannot be upset. In his application before the Tribunal the respondent sought a direction for consideration of his case afresh for the purpose of inclusion in the select list. The respondent can seek such consideration only in a way that it does not disturb the appointment of other State Civil Service officers who have been appointed to the Service on the basis of the Select List of December 1986/January 1987. For that purpose out of the said

officers whose appointment is not to be disturbed those who were senior to the respondent in the State Civil Service will have to be adjusted against the vacancies for the years 1980-1986. If, as a result of such adjustment the vacancies of a particular year/years are completely filled, then no further action is to be taken in respect of the vacancies for that/those year/years. If after such adjustment the vacancies of a particular year/years are not completely filled, steps will have to be taken to prepare notional Select List/Lists for the vacancies of that/these year//years separately from amongst State Civil Service officers who are eligible and fall within the zone of consideration for selection in respect of the vacancies of the particular year. If the name of the respondent is included in the notional Select List/Lists so prepared or any particular year/years during the period 1980 to 1986 and is places in the order of merit so as to have been entitled to be appointed against a vacancy of that particular year, he can justifiably claim to be appointed to the Service against that vacancy of that year. But that appointment of other State Civil Service officers, through junior to the respondent, made on the basis of the Select List of December 1986/January 1987 and

the vacancy against which the appointment of the respondent would be made will have to be adjusted the subsequent vacancies falling within the promotion quota prescribed for State Civil Service officers.

Therefore, while upholding the judgement of the Tribunal that the respondent is entitled to seek fresh consideration on the basis that the selection should be made for vacancies occurring in each year separately, but in substitution of the directions given by the Tribunal in the regard, the following directions are given :-

(1) The number of vacancies falling in the quota prescribed for promotion of State Civil Service officers to the Service shall be determined separately for each year in respect of the period from 1980 to 1986.

(2) The State Civil Service officers who have been appointed to the Service on the basis of the impugned Select List of December 1986/January 1987 and were senior to the respondent in the State Civil Service shall be adjusted against the vacancies so determined on year wise basis.

(3) After such adjustment if all the vacancies in a particular year or years are filled by the officers referred to in paragraph (2), no

further action need be taken in respect of those vacancies for the said year/years.

(4) But, if after such adjustment vacancy/vacancies remain in a particular year/years during the period from 1980 to 1986, notional Select List/Lists shall be prepared separately for that year/years on a consideration of all eligible officers falling within the zone of consideration determined on the basis of the vacancies of the particular year. (5) If the name of the respondent is included in the notional Select List/Lists prepared for any particular year/years during the period 1980 to 1986 and if he is so placed in the order of merit so as to have been entitled to be appointed against a vacancy of that particular year, he be appointed to the Service against that vacancy of that year with all consequential benefits.

(6) The vacancy against which the respondent is so appointed would be adjusted against the subsequent vacancies falling in the promotion quota prescribed for the State Civil Service officers. (7) Such appointment of the respondent would not affect the appointments that have already been made on the basis of the impugned Select List of December 1986/January 1987.

The appeal is disposed of accordingly. No order as to costs."

40. In this case we have already found that since the selection process was already commenced on 15.01.2017 and the interim order in SangeethaGajananBhat's case was only during the period of 07.09.2017 to 30.10.2017 issued as the respondents will not file reply even after repeated orders. ***Interim order was there only for 51 days*** and therefore it cannot be said to have had much effect, and particularly so as after the proposal was sent by the State Government on 21.12.2017, it had to be returned by the UPSC for clearing certain lacunaes. The corrected proposal was received by the UPSC on 27.12.2017 but they claim that by then their holidays had commenced and none was available to process it.

41. But the Hon'ble Apex Court in Union of India and another Vs. Hemraj Singh Chauhan reported in AIR 2010 SC 1682 held that the right to be considered for a promotion is almost a fundamental right. IN view of its importance we are quoting it below:

"GANGULY, J.:- Leave granted.

2. In SLP (C) Nos.6758-6759/2009, Union of India and the Secretary, Union Public Service Commission are in appeal impugning the judgment and order dated 14.11.2008

delivered by the Delhi High Court on the writ petition filed by Hemraj Singh Chauhan and Ramnawal Singh, the respondents herein.

3. The respondents are members of the State Civil Service (S.C.S.) of the State of Uttar Pradesh and according to them completed eight years of service on 23.07.85 and 4.6.86 respectively. The contention of the respondents is that in terms of Regulation 5(3) of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955, a member of the S.C.S., who has attained the age of 54 years on the 1st day of January of the year in which the Committee meets, shall be considered by the Committee, provided he was eligible for such consideration on the 1st day of the year or of any of the years immediately preceding the year in which such meeting is held, but could not be considered as no meeting of the Committee was held during such preceding year or years.

4. Those regulations have been framed in exercise of power under Sub-Rule 1 of Rule 8 of Indian Administrative Service Recruitment Rules, 1954 and in consultation with

the State Government and the Union Public Service Commission.

5. Regulation 5 (1) of the said Regulation provides that such Committee shall ordinarily meet every year and prepare a list of such members of the S.C.S. as are held to be suitable for promotion to the service. The number of members of the said civil services to be included in this list shall be determined by the Central Government in consultation with the State Government concerned but shall not exceed the number of substantive vacancies in the year in which such meeting is held.

6. It may be mentioned in this connection that as a result of bifurcation of the State of Uttar Pradesh as a result of creation of the State of Uttaranchal in terms of the State Reorganization Act, namely Uttar Pradesh State Reorganization Act 2000, two notifications were issued on 21.10.2000. The first was issued under Section 3(1) of the All India Services Act, 1951 read with Section 72 (2) and (3) of the Reorganization Act and Rule 4 (2) of the Indian Administrative Service (Fixation of Cadre Strength)

Regulations, 1956 (hereinafter referred to as the "Cadre Rule").

7. Thus, the Central Government constituted for the State of Uttaranchal an Indian Administrative Service Cadre with effect from 1.11.2000. On 21.10.2000 another notification was issued fixing the cadre strength of State of Uttar Pradesh thereby determining the number of senior posts in the State of Uttar Pradesh as 253.

8. The case of the appellants is that the next cadre review for the State of Uttar Pradesh fell due on 30th April, 2003. To that effect a letter dated 23.1.2003 was written by the Additional Secretary in the Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, Government of India to the Chief Secretary, Government of Uttar Pradesh.

9. The further case of the appellants is that several reminders were sent on 5th March, 3rd September, 17th September and 8th December, 2003 but unfortunately the Government of Uttar Pradesh did not respond. Then a further reminder was sent by the Government of India

stating therein that four requests were made for the cadre review of the I.A.S. cadre of Uttar Pradesh but no response was received from the Government of Uttar Pradesh. In the said letter the Government of India wanted suitable direction from the concerned officials so that they can furnish the cadre review proposal by 28.2.04. Unfortunately, there was no response and thereafter subsequent reminders were also sent by the Government of India on 14th/17th June, 2004 and 8th October, 2004.

10. Ultimately, a proposal was received from the Government of Uttar Pradesh only in the month of January 2005 and immediately preliminary meeting was fixed on 21st February, 2005. Thereafter, a cadre review meeting was held under the Chairmanship of the Cabinet Secretary on 20th April, 2005 and the Minutes duly signed by the Chief Secretary, Government of Uttar Pradesh were received by the appellants on 27th June, 2005. After approval was given to the said Minutes, notification was issued on 25th August, 2005 re- fixing the cadre strength in the State of Uttar Pradesh.

11. Challenging the said notification, the respondents herein approached Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as C.A.T.) by filing two O.As, namely, O.A. No.1097/2006 and O.A. No.1137/2006 praying for quashing of the said notification. The respondents also prayed for setting aside the order dated 1.2.2006 whereby vacancies were increased as a result of the said cadre review adding to the then existing vacancies for the year 2006.

12. In those O.As the substance of the contention of the respondents was that the last cadre review of the I.A.S. in Uttar Pradesh cadre was conducted in 1998 and the next cadre review was therefore due in April 2003. As such it was contended that the cadre review which was conducted in August 2005 should have been given effect from April 2003 so that the respondents could be considered for promotion against the promotion quota.

13. The stand of the State of Uttar Pradesh before C.A.T. was that with the issuance of notification issued by the Department of Personnel and Training on 21.10.2000

bifurcating cadre of undivided Uttar Pradesh to I.A.S. Uttar Pradesh and I.A.S. Uttaranchal upon the Uttar Pradesh Reorganization Act, cadre review has already taken place and as such the next review was due in 2005 only.

14. The stand of the appellants both before the C.A.T. and before the High Court was that the cadre review was due in 2003. However, the C.A.T. after hearing the parties upheld the contention of the State of Uttar Pradesh and held that the cadre review carried out in 2005 cannot be given retrospective effect. The Tribunal dismissed O.A. No.1097/06 and partially allowed O.A. No.1137/06, inter alia, directing the respondents to convene the meeting of D.P.C. Selection Committee to fill- up the posts which were not filled up in the year 2001, 2002 and 2004 and to consider all eligible S.C.S. Officers in the zone of consideration including the officers who were put in the select list of those years but could not be appointed in the absence of integrity certificate.

15. However, the respondents being aggrieved by the judgment of the C.A.T. filed a writ petition before the

Hon'ble High Court on 18.12.2006 contending therein that the cadre review of the I.A.S. of Uttar Pradesh cadre was due in 2003 and was delayed by the State of Uttar Pradesh as a result of which some of the S.C.S. Officers were deprived of their promotion to the I.A.S. Their specific stand in the writ petition was if the increased vacancies were available in 2004 as a result of the cadre review in 2003, they could have been promoted to I.A.S.

16. However, before the High Court the stand of the Central Government was that the cadre review of the I.A.S. of Uttar Pradesh was due in 2003 but unfortunately it was held in 2005 when State of Uttar Pradesh had sent its proposal. Such review was made effective from 25.8.2005 when the revised cadre strength of the I.A.S. cadre of Uttar Pradesh was notified in the official Gazette in terms of the statutory provisions. The further stand of the appellants was that the cadre review undertaken in 2005 cannot be given retrospective effect.

17. However, before the High Court the stand of the Uttar Pradesh Government was slightly changed and it filed

a `better affidavit' and took the stand that they have no objection to any direction for exercise of cadre review to be undertaken with reference of the vacancy position as on 1.1.2004

18. The High Court after hearing the parties was pleased to set aside the judgment of C.A.T. dated 15.12.2006 and the notifications dated 1.2.2006 and 25.8.2005 were set aside. The State Government and the Central Government were directed that the cadre review exercise should be undertaken as if it was taking place on 30th April, 2003 with reference to the vacancy position as on 1st January, 2004.

19. In order to resolve the controversy in this case, the relevant statutory provisions may be noted. The respondents being S.C.S. Officers, are seeking promotion to I.A.S. in terms of Rule 4(1)(b) of the relevant recruitment rules. Rule 4(1)(b) of the Indian Administrative Service (Recruitment) Rules, 1954 is set out:- "4. Method of recruitment of the Service

(1) ***xxx xxxx***

xxxxxx

(b) By promotion of a substantive member of a State Civil Service;"

20. In tune with the said method of recruitment, substantive provisions have been made under Rule 8 for recruitment by promotion. Rule 8(1) of the Recruitment Rules in this connection is set out below:-

"8. Recruitment by promotion or selection for appointment to State and Joint Cadre:-

(1) The Central Government may, on the recommendations of the State Government concerned and in consultation with the Commission and in accordance with such regulations as the Central Government may, after consultation with the State Governments and the Commission, from time to time, make, recruit to the Service persons by promotion from amongst the substantive members of a State Civil Service."

21. Under Rule 9, the number of persons to be recruited under Rule 8 has been specified, but in this case we are not concerned with that controversy.

22. The other regulation which is relevant in this case is Rule 5 of Indian Administrative Service (Appointment by Promotion) Regulations, 1955 (hereinafter referred to as, `the said regulation'). These regulations have been referred to in the earlier part of the judgment. Rule 5(3) of the said regulation, relevant for the purpose of this case, is set out below:-

> ***"5 (3) The Committee shall not consider the cases of the members of the State Civil Service who have attained the age of 54 years on the first day of January of the year in which it meets:***
>
> ***Provided that a member of the State Civil Service whose name appears in the Select List prepared for the earlier year before the date of the meeting of the Committee and who has not been appointed to the Service only because he was included provisionally in that Select List***

shall be considered for inclusion in the fresh list to be prepared by the Committee, even if he has in the meanwhile attained the age of fifty four years:

Provided further that a member of the State Civil Service who has attained the age of fifty-four years on the first day of January of the year in which the Committee meets shall be considered by the Committee, if he was eligible for consideration on the first day of January of the year or of any of the years immediately preceding the year in which such meeting is held but could not be considered as no meeting of the Committee was held during such preceding year or years."

23. Another regulation relevant in this connection is Indian Administrative Service (Cadre) Rules, 1954 (hereinafter referred to as, `the Cadre Rules')

24. Under Rule 4 of the said Cadre Rules, the strength and composition of the Cadres constituted under Rule 3 shall be determined by regulation made by the Central Government in consultation with the State Government and

until such regulations are made, shall be as in force immediately before the commencement of those rules.

25. Rule 4(2) has come up for interpretation in this case and to appreciate its true contents, the said Rule 4(2) is set out below:-

"(2) The Central Government shall ordinarily at the interval of every five years, re-examine the strength and composition of each such cadre in consultation with the State Government or the State Governments concerned and may make such alterations therein as it deems fit.Provided that nothing in this sub-rule shall be deemed to affect the power of the Central Government to alter the strength and composition of any cadre at any other time:

Provided further that State Government concerned may add for a period not exceeding two years and with the approval of the Central Government for a further period not exceeding three years, to a Sate or Joint Cadre one or more posts carrying duties or responsibilities of a like nature to cadre posts."

26. The main controversy in this case is, whether re-examination on the strength and composition of cadre in the State of Uttar Pradesh had taken place in accordance with the mandate of Rule 4 sub-rule (2).

27. It appears clearly that the authorities who are under a statutory mandate to re-examine the strength and composition of cadre are the Central Government and the concerned State Government. It can be noted in this connection that word `ordinarily' in Rule 4(2) has come byway of amendment with effect from 1.3.1995 along with said amendment has also come the amendment of 5 years, previously it was 3 years.

28. From the admitted facts of this case, it is clear that Central Government had always thought that cadre review in terms of Rule 4(2) of the cadre Rules was due in 2003. In several letters written by the Central Government, it has been repeatedly urged that the cadre review of I.A.S. cadre of Uttar Pradesh is due on 30th April, 2003. The letter dated 23/24 January, 2003 written to that effect on behalf of the

appellant to the Chief Secretary, Government of Uttar Pradesh, Lucknow is set out below:-

"Dear ShriBagga,

The cadre review of IAS cadre of Uttar Pradesh is due on 30.04.2003. The Supreme Court in 613/1994 (TANSOA vs. Union of India) has stated that the Central Government has the primary responsibility of making cadre reviews and to consider whether it is necessary or not to encadre long existing ex-cadre posts. Delay in conducting the cadre review results in avoidable litigation as officers of the State Civil Service approach the Courts that the delay has stalled their promotional avenues. It is important that the cadre reviews are held on time.

2. I shall, therefore, be grateful if you could look into the matter personally and instruct the concerned officials to sponsor the review proposals in the prescribed proforma, after taking into consideration the requirement of the State Government by 28th February, 2003 to this Department for processing the case further.With regards"

29. In various subsequent letters, namely dated 5th March, 2003, 3rd September, 2003, 17th September, 2003, 8th December, 2003, the Central Government reiterated its stand that cadre review has to be done by 2003. Admittedly, the Central Government took the aforesaid stand in view of the law laid down by this Court in the case of T.N.Administrative Service Officers Association and another v. Union of India and others, reported in (2000) 5 SCC 728 : (AIR 2000 SC 1898 : 2000 AIR SCW 1506).

30. It cannot be disputed that the Central Government took the aforesaid stand in view of its statutory responsibility of initiating cadre review as a cadre controlling authority. In fact in the letter dated 29th August, 2005 by NeeraYadav, on behalf of the State of Uttar Pradesh, it has been categorically admitted in paragraph 3 of the said letter that the previous cadre review was done in 1998. The stand is as follows:-

"Thus, the cadre review for alteration was to be done under Rule 4(2) of the Indian Administrative Service Cadre

Rules, 1954 as on 30.04.2003. The Department of Personal & Training, through D.O.

letter No.11031/5/2003- AIS-II dated 23.01.2003 requested that State Government to sponsor the review proposal on the prescribed proforma as cadre review as cadre review of Indian Administrative Service, Uttar Pradesh cadre was due on 30.04.2003."

31. In the affidavit of the appellant, filed before Central Administrative Tribunal, the following stand has been categorically taken:-"It is submitted that the last cadre strength of the IAS cadre of unified cadre of Uttar Pradesh was notified on 30.04.1998. Therefore, as per Rule 4(2) of the IAS (Cadre) Rules, 1954, the next review was due on 30.4.2003."

32. It was also stated that the reference by the State Government to order dated 23.9.2000 was not one of cadre review. It was a reference of the State Government in connection with the bifurcation of Uttar Pradesh and Uttaranchal, pursuant to Uttar Pradesh Reorganization Act,

2000. It was admitted that the I.A.S cadre of Uttaranchal was constituted later i.e. on 21.10.2000.

33. In so far as the State of U.P. was concerned, the State filed an application for a `better affidavit' before the High Court and in paragraphs 4 and 5 of the said application the State Government reiterated the reasons for filing a `better affidavit'. In those paragraphs, the stand of the Central Government was reiterated, namely, that the last cadre review was done in 1998 and the subsequent cadre review under Rule 4(2) of the Cadre Rules was due on 30.04.2003. In the `better affidavit', which was filed on behalf of the State of Uttar Pradesh before the High Court, in paragraph 8, the stand taken is as follows:-

"..In this view of the matter, since the last "Quinquenial Cadre Review" of the IAS Cadre was held on 30.4.1998, the next "Quinquenial Cadre Review" of the IAS cadre became due on 30.4.2003 as stated by the Cadre Controlling Authority in para 9 of its counter affidavit."

34. It is thus clear that both the authorities under Rule 4(2) of the Cadre Rules accepted on principle that cadre review in Uttar Pradesh was due in 2003.

35. Appearing for the appellants the learned counsel urged that the judgment of the High Court in so far as it seeks to give a retrospective effect to the cadre review is bad inasmuch as the stand of the appellants is that the Notification dated 25.8.2005 makes it explicitly clear that the same comes into force on the date of its publication in the Official Gazette. Relying on the said Notification, it has been urged that since the same has been made explicitly prospective and especially when the Rule in question, namely, Rule 4(2) of the Cadre Rules is expressly prospective in nature, the cadre review exercise cannot be made retrospective. This seems to be the only bone of contention on the part of the appellants.

36. However, from the discussion made hereinbefore, the following things are clear:

(a) Both the appellants and the State Government in accordance with their stand in the subsequent affidavit

accepted that Cadre Review in the State of U.P. was made in 1998 and the next Cadre Review in that State was due in 2003;

(b) Neither the appellants nor the State Government has given any plausible explanation justifying the delay in Cadre review;

(c) From the materials on record it is clear that the appellant as the Cadre Controlling authority repeatedly urged the State Government to initiate the review by several letters referred to hereinabove;

(d) The only reason for the delay in review, in our opinion, is that there was total in-action on the part of the U.P. Government and lackadaisical attitude in discharging its statutory responsibility.

37. The Court must keep in mind the Constitutional obligation of both the appellants/Central Government as also the State Government. Both the Central Government and the State Government are to act as model employers, which is consistent with their role in a Welfare State.

38. It is an accepted legal position that the right of eligible employees to be considered for promotion is virtually a part of their fundamental right guaranteed under Article 16 of the Constitution. The guarantee of a fair consideration in matters of promotion under Article 16virtually flows from guarantee of equality under Article 14 of the Constitution.

39. In The Manager, Government Branch Press and Anr. vs. D.B. Belliappa - (1979) 1 SCC 477 : (AIR 1979 SC 429), a three judge Bench of this Court in relation to service dispute, may be in a different context, held that the essence of guarantee epitomized under Articles 14 and 16 is "fairness founded on reason" (See para 24 page 486).

40. It is, therefore, clear that legitimate expectations of the respondents of being considered for promotion has been defeated by the acts of the government and if not of the Central Government, certainly the unreasonable in-action on the part of the Government of State of U.P. stood in the way of the respondents' chances of promotion from being fairly considered when it is due for such

consideration and delay has made them ineligible for such consideration. Now the question which is weighing on the conscience of this Court is how to fairly resolve this controversy.

41. Learned counsel for the appellants has also urged that the statutory mandate of a cadre review exercise every five years is qualified by the expression `ordinarily'. So if it has not been done within five years that does not amount to a failure of exercise of a statutory duty on the part of the authority contemplated under the Rule.

42. This Court is not very much impressed with the aforesaid contention. The word `ordinarily' must be given its ordinary meaning. While construing the word the Court must not be oblivious of the context in which it has been used. In the case in hand the word `ordinarily' has been used in the context of promotional opportunities of the Officers concerned. In such a situation the word `ordinarily' has to be construed in order to fulfill the statutory intent for which it has been used.

43. The word `ordinarily', of course, means that it does not promote a cast iron rule, it is flexible (See JasbhaiMotibhai Desai vs. Roshan Kumar, Haji Bashir Ahmed and Others - (1976) 1 SCC 671, at page 682 (para 35) : (AIR 1976 SC 378). It excludes something which is extraordinary or special [Eicher Tractors Limited, Haryana vs. Commissioner of Customs, Mumbai - (2001) 1 SCC 315 : (AIR 2001 SC 196 : 2000 AIR SCW 4080), at page 319 (para 6)]. The word `ordinarily' would convey the idea of something which is done `normally' [KrishanGopal vs. ShriPrakashchandra and others - (1974) 1 SCC 128, at page 134 (para 12)] : (AIR 1974 SC 200) and `generally' subject to special provision [Mohan Baitha and others vs. State of Bihar and another - (2001) 4 SCC 350 at page 354] : (AIR 2001 SC 1490)

44. Concurring with the aforesaid interpretative exercise, we hold that the statutory duty which is cast on the State Government and the Central Government to undertake the cadre review exercise every five years is ordinarily mandatory subject to exceptions which may be

justified in the facts of a given case. Surely, lethargy, in-action, an absence of a sense of responsibility cannot fall within category of just exceptions.

45. In the facts of this case neither the appellants nor the State of U.P. has justified its action of not undertaking the exercise within the statutory time frame on any acceptable ground. Therefore, the delayed exercise cannot be justified within the meaning of `ordinarily' in the facts of this case. In the facts of the case, therefore, the Court holds that there was failure on the part of the authorities in carrying out the timely exercise of cadre review.

46. In a somewhat similar situation, this Court in Union of India and Ors. vs. VipinchandraHiralal Shah - (1996) 6 SCC 721, while construing Regulation 5 of the I.A.S. (Appointment by Promotion) Regulations, 1955 held that the insertion of the word `ordinarily' does not alter the intendment underlying the provision. This Court in that case was considering the provision of Clause (1) of Regulation 5 of the IPS (Appointment by Promotion) Regulations along with other provisions of Regulation 5.

The interpretation which this Court gave to the aforesaid two Regulations was that the Selection Committee shall meet at an interval not exceeding one year and prepare a list of members who are eligible for promotion under the list. The Court held that this was mandatory in nature.

47. It was urged before this Court that the insertion of the word `ordinarily' will make a difference. Repelling the said contention, this Court held that the word `ordinarily' does not alter the underlying intendment of the provision. This Court made it clear that unless there is a very good reason for not doing so, the Selection Committee shall meet every year for making the selection. In doing so, the Court relied on its previous decision in Syed Khalid Rizvi vs. Union of India - 1993 Supp. (3) SCC 575. In that case the Court was considering Regulation 5 of the Indian Police Service (Appointment by Promotion) Regulations, 1955 which also contained the word `ordinarily'. In that context the word `ordinarily' has been construed as:

".....since preparation of the select list is the foundation for promotion and its omission impinges upon

the legitimate expectation of promotee officers for consideration of their claim for promotion as IPS officers, the preparation of the select list must be construed to be mandatory. The Committee should, therefore, meet every year and prepare the select list and be reviewed and revised from time to time as exigencies demand."

48. The same logic applies in the case of cadre review exercise also.

49. Therefore, this Court accepts the arguments of the learned counsel for the appellants that Rule 4(2) cannot be construed to have any retrospective operation and it will operate prospectively. But in the facts and circumstances of the case, the Court can, especially having regard to its power under Article 142 of the Constitution, give suitable directions in order to mitigate the hardship and denial of legitimate rights of the employees. The Court is satisfied that in this case for the delayed exercise of statutory function the Government has not offered any plausible explanation. The respondents cannot be made in any way responsible for the delay. In such a situation, as in the

instant case, the directions given by the High Court cannot be said to be unreasonable. In any event this Court reiterates those very directions in exercise of its power under Article 142 of the Constitution of India subject to the only rider that in normal cases the provision of Rule 4(2) of the said Cadre Rules cannot be construed retrospectively.

50. With the aforesaid modification/direction, the appeals filed by the Union of India are disposed of. There shall be no order as to costs."

Order accordingly."

42. Therefore these are the factors for consideration:

1) Why was the proposal delayed from 15.01.2017 to 21.12.2017?

2) Had the applicants any role in the delay?

3) What is the obstacle against taking up of the proposal?

4) What is the extent of right of the applicants to be considered now?

43. Relating to the 1st question we had already found from the files that the DoPT in Government of India had cleared 3 vacancies in Non-

SCS category for Karnataka by 15.01.2017. Thereafter as we had already found that due to non-co-operation of administrative departments (as found in the files) that it took such a long time and even thereafter. What was sent was an incomplete dossier (even though a check list is seen included in the files). The contention that only because of a stay order in OA No. 1007/2016 filed by Smt. SangeethaGajananBhat was the reason for the delay may not be correct as the interim order had to be given as even after repeated orders no reply statement was filed. The interim order was in force for only 51 days from 07.09.2017 to 30.10.2017. As the issue is from 15.01.2017 to 21.12.2017, it may probably not attributable to the interim order. But as they had done in earlier cases, on receipt of the proposal an immediate SCM could have been convened as it takes only one day to complete the process – if one wants to do it. (The department representative of UPSC submits that they need about 2 weeks to complete the process)

44. But assuming that a fault is attributable to the Court also. What then? When the Union Government issued a Draft Proposal and it seemed that under the aegis of VimalaKumari's judgment of the

Hon'ble Apex Court, the Court has to examine. **However no act of the Court shall or should prejudice anyone.**

45. Coming to the 2nd question, the applicants seems to have moved the UPSC by a representation on 30.11.2017 with copy to the Karnataka State. Therefore there does not appear to be any role on the part of the applicants for this delay.

46. Coming to the 3rd issue, UPSC would state that under the regulations each year selection has to be completed within that year itself. But in Sham Bhat's case, Amrutha Lakshmi's case, Hemraj Singh's case etc the rationale of the judgments of the Hon'ble Apex Court had already traversed this apparent breach and reached across to bridge this chasm by dynamic interpretation of the regulations in view of the greater public interest and Constitutional ethos. Therefore there does not seem to be any insurmountable obstacle.

47. Coming to the 4th issue, it is fully covered by the decisions of the Hon'ble Apex Court and have been extracted before.

48. Concept of Fairness. Since applicants and others like them are adjudged by the State of Karnataka as the best in the field, public interest require that they be considered for betterment of Karnataka state administration. As they are so, it will be unfair to deny them this

chance as otherwise, because of the age factor, they may lose out on any selection after 2016. So the concept of fairness in their favour.

49. Concept of Legitimate expectation. As they were finalized with a proposal by the State Government, they had a reasonable expectation to be considered and selected. So this point is also in their favour. **What is the nature of this obstacle**. It is said by the UPSC that even though they are in receipt of the proposal in time, as they were having holidays, they were unable to process it before 31.12.2017.

50. But then, even the Limitation Act provides remedies for this.If a cause of action accrues during the non sitting days of a Court, the cause can be filed on the next day and limitation is not applied. So also for just reasons a Court can condone any delay and allow causes to be proceeded.

51. In addition the Hon'ble Apex Court had held that to be considered for a promotion is almost a fundamental right. Therefore

as Hon'ble Justice Gajendragadkar had explained, the cost of delay is only on the respondents and the applicants cannot be taxed with it. In this particular circumstance the process of Regulation 5(c) will not be applicable to the applicants and similarly situated.

52. Can a fundamental right be defeated by a timid technicality which were repeatedly over lashed by the Hon'ble Apex Court?

53. On a cumulative conspectus, the following declaration is issued.

The applicant and others similar to them in the proposal dated 21.12.2017 of the State of Karnataka has preeminent right to be considered for promotion by selection into IAS Karnataka Cadre of 2016.

54. Therefore the following mandate is issued:

a) There will be a mandate to the UPSC to process the proposal issued by the State of Karnataka and call for a Selection Committee Meeting and finalize the selection of 2016 of Karnataka Cadre as stated in the body within the next 30 days without any reference to Regulation 5(c).

b) The Union Government and the Government of Karnataka to take all such steps to facilitate the declaration given in the light of the mandate of fundamental right of applicants.

55. The OA is thus allowed. No order as to costs.

(P.K.PRADHAN)
MEMBER(A)

(DR.K.B.SURESH)
MEMBER(J)

sd/ksk

Annexures referred to by the applicants in OA No.170/00883-884/2017.

1. Annexure A1: Copy of the Regulations, 1997
2. Annexure A2: Copy of the UO Note dated 06.05.2017
3. Annexure A3: Copy of the recommendation dated 25.07.2017 along with translation.
4. Annexure A4: Copy of the representation dated 02.11.2017
5. Annexure A5: Copy of the representation dated 13.11.2017
6. Annexure A6: Copy of the Order dated 15.12.2017 Passed in Original Application No.750/2017
7. Annexure A7: Copy of the representation dated 15.12.2017
8. Annexure A8: Copy of the Letter dated 28.12.2017 along with type copy.
9. Annexure A9: Copy of the interim Order dated 24.12.2014.
10. Annexure A10: Copy of the Order dated 13.03.2015.
11. Annexure A11: Copy of the letter dated 29.12.2017
12. Annexure A12: Copy of the application made by the 1st ApplicantUnder the Right to Information Act.
13. Annexure A13: Copy of the letter dated 03/01/2018

Annexures referred in Reply Statement by Respondent-2,3,4& 5 :

1. Annexure R1: Copy of letter dated 03.01.2018
2. Annexure R1: Copy of the Order dated 07.09.2017.
3. Annexure R2: Copy of the Order dated 19.10.2017.
4. Annexure R3: Copy of letter dated 22.12.2017.
5. Annexure R4: Copy of letter dated 26.12.2017.
6. Annexure R5: Copy of UPSC dated 27.12.2017.
7. Annexure R6: Copy of Confirmation of E-mail
8. Annexure R7: Copy of UPSC letter dated 03.01.2018.

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