

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BENGALURU**

ORIGINAL APPLICATION NO.170/0001669/2018

DATED THIS THE 21ST DAY OF MARCH, 2019

**HON'BLE DR.K.B.SURESH
HON'BLE SHRI C.V. SANKAR**

**...MEMBER(J)
...MEMBER(A)**

Smt. D. Bharathi,
W/o H.P. Mahadevappa,
Aged about 43 years,
Working as Secretary,
State Election Commission,
Cunningham Road,
Bengaluru-560 052.

...Applicant.

(By Advocate Shri M. Nagaprasanna)

1.Union of India,
Represented by its Secretary
To Government, Department
Of Personnel and Training,
North Block,
New Delhi-110 001.

2.Union Public Service Commission,
Represented by its Secretary
Dholpur House, Shahajahan Road,
New Delhi-110 069.

3.State of Karnataka,
By its Chief Secretary,
Vidhana Soudha,
Bangalore-560 001.

....Respondents.

(By Shri H.R. Sreedhara, Counsel for R-1
Shri M. Rajakumar Counsel for R-2 and
Shri Sathyanarayana Singh Counsel for R-3)

ORDER (ORAL)

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

Heard. The matter seems to be covered by the reply filed by the State Government. We quote from their reply :

“6. It is submitted that the Joint Secretary (AIS), UPSC had held a meeting with the State Government on 09.05.2018 through Video Conferencing to discuss issues related to the submissions of proposals for convening Selection Committee meetings for promotion of State Service Officers to Indian Administrative Services. Following actionable points with regard to the promotion of State Services officers (SCS) to Indian Administrative Services (IAS) has been recommended in the said Video conference:

(i) 11 vacancies have been determined by the DOP&T for the Select List of 2016. Vacancies for the Select List of 2017 have not yet been determined by the DOP&T.

(ii) The Hon'ble Supreme Court have dismissed the appeal filed by the State Government against the order dated 21.06.2016 of the Hon'ble High Court. Therefore, in compliance of the said orders, the State Government is required to revise the seniority list of KAS and KPS.

(iii) Therefore, proposal will be submitted to convene RSCM to review the Select List of 2015 along with the proposal for convening SCM for preparation of the Select Lists of 2016 and 2017 (after determination of vacancies) for promotion to the IAS of Karnataka Cadre.

Hence, the matter is being processed as per the above instructions.”

2. In para 6 of the reply it is submitted that following a discussion the Joint Secretary of UPSC with the State Government on 09.05.2018, the State Government has decided now to convene SCM. The State Government would like to send up names of these people to be considered. It is therefore, their responsibility and within their ambit and jurisdiction to do so, under the rules. Therefore, there cannot be any objection on the part of any one, in any of these people being considered.

3. Apparently the parties point out that DPAR issued a letter No.DPAR 03 SAS 2018 dated 12.02.2019, which we quote:

“From

The Chief Secretary to Government
Government of Karnataka,
Vidhana Soudha,
Bangalore-560 001.

To

The Secretary to Government of India
Ministry of Personnel and Public Grievances & Pensions,
Department of Personnel & Training,
North Block, New Delhi-110 001.

(Kind Attn: Shri Pankaj Gangwar, Under Secretary, AIS(I))

Sir,

Sub: Determination of vacancies for promotion/Selection of SCS
and Non-SCS officers of Karnataka Cadre to Indian Administrative
Service for preparation of Select List 2017 – reg.

Ref: 1) D.O. Letter No.14015/34/2017-AIS, dated 26.12.2017.

2)State Government letter of even number dated 16.01.2018 and
09.10.2018 and 14.01.2019.

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In continuation to the State Government's letters of even number cited at (2) above, I am directed to state that since no vacancy is accrued under Non-SCS for the year 2017, the State Government does not intend to fill posts under non-SCS Category for the Select List 2017.

Therefore, I am directed to request you to communicate the decision of Government of India regarding determination/ approval of the two (02) vacancies available for appointment of SCS officers of Karnataka for promotion to IAS for the Selection List 2017.

Sd/-

(Shakuntala Chougala)
Under Secretary to Government
DP & AR (Service-1)

4. D.O.No.14015/31/2018-AIS(I) dated 19.12.2018 has been issued, we quote from
it:

Dear Sir,

As per Regulation 5 of the IAS (Appointment by promotion) Regulation 1955 as well as Regulation 3 of the IAS (Appointment by Selection) Regulations, 1997 for filling up the posts in the promotion Quota of IAS in that state, each year this Department determines the number of vacancies in consultation with the State Government concerned.

2. As per the guidelines contained in this department's O.M. No. 22012/99/2009-AIS(I) dated 25th August 2010, pursuant to Judgment of Hon'ble Supreme Court in SLP. No.14002/2010 in the matter of UOI Vs. Praveen Kumar & or. Together with OM No. 14015/30/2015-AIS.I C dated 17.03.2015, for preparation of Select List of 2018 for SCS and 2018 for Non-SCS vacancies that have arisen between 1.1.2018 to 31.12.2018, are to be taken into account.

3. It has been our experience that at times we do not get complete proposals from the State Government or do not get them on time, which results in avoidable delay in determination of the vacancies, and consequently in holding a meeting of the Selection Committee.

4. Therefore, we request information from the State Government for determination of number of vacancies in the promotion quota of IAS, both in SCS and Non-SCS category in the proforma enclosed well in time.

5. Further, in case, the State Government intends to full up some posts under Non-SCS category, as per Rules from the Select List of 2018, it will be required to give the following three certificates signed and stamped by the competent officer.

- (i) That specific special circumstances exist in the State, necessitating filling up of the vacancies under the non-SCS category.
- (ii) That sufficient number of eligible Non-SCS officers of outstanding merit and ability are available in the State and ;
- (iii) That the posts held by Non-SCS officers whose names would be sent in the zone of consideration have been declared equivalent to the post of Deputy Collector of SCS by the State Government.

6. Here I would like to bring to you notice that the provision of Regulation 4(iii) of IAS (Appointment and Selection) Regulations, 1997 whereby the number of Non-SCS officers proposed for consideration of the Committee shall not exceed 5 time the number of vacancies. Therefore, it is desirable that for every one vacancy expected to be determined, names of 5 officers serving in connection with the affairs of the State and not belonging to the State Civil Service are sent.

7. I would be grateful if you would kindly direct the concerned officer in the State Government to furnish comprehensive information, as per the proforma enclosed along with the above mentioned certificates, if applicable, latest by the 15th January, 2019, as we are targeting on completing the process of determination of vacancies by the end of January, 2019 and scheduling meetings of the Selection Committee for promotion/appointment to IAS soon thereafter.

8. It is also requested that a soft copy of the proposal may be sent b y e-mail at
uss 1@nic.in.

With warm regard,

Yours sincerely

Sd/-

(Vijoy Kumar Singh)

To

- 1.The Chief Secretaries of all the State Governments.
- 2.The Union Home Secretary in respect of AGMUT Cadre (Segment wise) of IAS.

Copy to : The Secretary, UPSC, Dholpur House, Shajahan Road, New Delhi.”

5. Therefore, 2016-2017 vacancies will now be considered by the State Government
and appropriate orders issued within the next 5 weeks. The OA is allowed. No costs.

(C.V. SANKAR)
MEMBER(A)

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

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Annexures referred to by the Applicant in OA.1669/2018

Annexure A-1: Copy of Notification dated 27.6.2006 appointing the applicant to IAS Group-A.

Annexure A-2: Copy of Notification dated 19.02.2009 declaring satisfactory completion of probation of the applicant.

Annexure A-3: Copy of representation of the applicant dated 4.10.2017.

Annexure A-4: Copy of representation of the applicant dated 22.12.2017.

Annexure A-5: Copy of Notification dated 23.2.2008 issued by 1st respondent.

Annexure A-6: Copy of representation of the applicant dated 27.02.2018.

Annexure A-7: Copy of representation of the applicant dated 3.07.2018.

Annexure A-8: Copy of representation of the applicant dated 23.8.2018.

Annexure RA-9: Copy of order dated 13.03.2015 passed by the Hon'ble High Court in WP.No.59962 of 2014.

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