

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00591/2019

DATED THIS THE 17TH DAY OF JULY, 2019

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

HON'BLE SHRI C V SANKAR, MEMBER (A)

Shri M.N. Reddi,
Aged about 59 years
S/o late M. Ramachandra Reddy,
Now working as Director General of
Police & Commandant General Home
Guards, Director, Civil Defence,
Director General Fire & Emergency
Services and Director General SDRF,
Karnataka State, Bengaluru

.....Applicant

(By Advocate Shri L.M. Chidanandayya)

Vs.

1. Government of Karnataka,
Represented by its Chief Secretary,
Vidhana Soudha, Bengaluru 560 001

2. The Principal Secretary to Govt.
Government of Karnataka,
Department of Personnel and
Administrative Reforms,
Vidhana Soudha, Bengaluru 560 001

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

4. Smt. Neelamani N. Raju
Wife of Shri D.N. Narasimha Raju,

Director General & Inspector General of Police (HOPF),
Nrupatunga Road,
Bengaluru 560 002

5. Union of India
Ministry of Home Affairs
Represented by its Secretary
North Block
New Delhi 110 001

.....Respondents

(By Shri Uday Holla, Advocate General,
Shri Sathyanarayana Singh, Counsel for Respondent No.1 & 2,
Shri M. Rajakumar, Counsel for Respondent No.3
Shri Swaroop Anand, Counsel for Respondent No.4,
Shri M.V. Rao, Counsel for Respondent No.5)

ORDER

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

The applicant is a 1984 selectee into the Indian Police Service. He has a grievance that he has an excellent track record in the field of law and order and prevention and detection of crime and has 'Outstanding' gradings in the Annual Confidential Reports. He submits that the 2017 selection of the 4th respondent was not correct. He feels that without the empanelment by the Union Public Service Commission the selection and appointment as the Director General and Inspector General of Police is not correct. He has a further grievance that the State Government may have acted contrary to the judgment of the Hon'ble Supreme Court of India in WP No. 310/1996. He has a further grievance that even if one is to go by the 2012 Act, the Clause 5 of the said Act is indicative of the requirements for the post which he feels that the 4th respondent lacks. Both the 4th respondent and the State Government

submit that even though a Bench of the Hon'ble Apex Court had passed an interim order that things may be kept in abeyance later on the Bench clarified the position to mean that whatever had been completed need not be looked into and, in any case, the orders were to have effect till a statute is adopted by the State Government and, as the statute has come into being, it will have precedence above everything else as stipulated by the Hon'ble Apex Court in at least a hundred cases.

2. Therefore the question is now, if we do not look so deeply into the question of limitation and the efflux of time denying any rights which the applicant may have had, we thought it best that if the matter is looked into at the crux of things then a better situation may arise. At this point of time, we do not think that it is necessary to look into what the Hon'ble Supreme Court may have meant but what the government has done to select respondent No. 4. Therefore, we had directed the State to produce the selection file and had heard the learned counsels extensively on the points arising in it. We had also perused the argument notes submitted by the parties and gone through the judgments they have relied on in support of their cause. At the outset, we have to say that the High Power Committee which looked into the matter comprising of 1) Shri Ramalinga Reddy 2) Shri T.B. Jayachandra 3) Dr. Subhash Chandra Khuntia 4) Shri T.K. Anil Kumar had made a comparative study of all the six candidates after having examined all the concerned records and we must say that

they have done an excellent job. They have considered 1) Smt. Neelamani N. Raju who had secured 2 distinctions 2) Shri H.C. Kishore Chandra who had also secured 2 distinctions 3) Shri M.N. Reddi who had also secured 2 distinctions 4) Shri Prem Shankar Meena who had also secured 2 distinctions and 5) Shri Ashit Mohan Prasad who had also secured 2 distinctions. Besides this, all the commendations and encomiums received by all the candidates at various times have been examined by the Committee. We have examined them one by one and tried to find out the basis for the decision of proposal by the Committee. At this point we must admit that the encomium handed over to one candidate by one organization calling itself Yuva Andolan is extremely vague and could never be acted upon and apparently it was not acted upon. There were, of course, some such encomiums which may have called for some derision. But, on the whole, a proper appreciation was made by the Committee of all these.

3. The 4th respondent points out that there were allegations against the applicant. We found that the Director General of Police had given a detailed complaint against him but then we also found that nothing could be done about it as it was still lying in the labyrinth of the Home Ministry and not acted upon. The applicant having never been confronted with it and given an opportunity of defending his case, we do not think that

going by the Dev Dutt principle it can be taken as a view against the applicant.

4. We had carefully gone through the yearly appraisals of all these candidates. We found that the applicant has received 19 'Outstanding' 7 'Very Good' and 3 'Good' in his APAR whereas the 4th respondent had received 20 'Outstanding' 9 'Very Good' and 1 'Good'. Therefore, on a comparative analysis, she had more 'Very Goods' than the applicant and applicant having received only 3 'Good' diminishes his position. We had carefully gone through the appreciation letter issued by various superior officers during the course of the service of these people. The main grouse raised by the applicant seems to be that the 4th respondent had had most of her service in the Intelligence Bureau and therefore could not be said to have completed her work in the field. Therefore we had gone into the examination of these records and found that these appreciation letters were given for the very purpose of excellence in field work only and intelligence gathering is also an effective tool of policing. It cannot be said that the 4th respondent is deficient in that. In fact her superior officers have certified that she was all along doing only field work and the appreciation she had received is also with regard to field work only. But in view of national security, open discussion on these aspects is not called for.

5. The government, on the other hand, raises an objection that the Hon'ble Apex Court had time and again held that the Tribunal has no jurisdiction to entertain time barred matters unless specific ground is raised. The learned Advocate General had produced several judgments to this effect. We are in agreement with all of them. The 4th respondent submits that when the Hon'ble Apex Court had changed and clarified the fact situation nothing more need be looked into.

6. Since we had a few queries to seek from all the parties we had posted the matter for being heard once again and heard all the parties and agreed to hear the applicant personally. We had queried him as to whether in a situation of equality what will be the value of seniority. He was gracious enough to submit that in such case seniority will have weightage. We had, therefore, perused the file produced by the government and found that the Committee had made an unequivocal proposition after examining all the details and in very close detail all the elements about all the candidates and placed it before the Hon'ble Chief Minister. The Chief Minister taking a very balanced stand had viewed that **“taking due note of the seniority the 4th respondent is selected and appointed as the Director General and Inspector General of Police.”**

We have already found that even by the parameters laid there is more than equality on the side of the 4th respondent than the applicant as her APARs are slightly better than the applicant. Both of them have done

field work efficiently and both had secured 2 distinctions. Therefore, the decision of the Chief Minister in selecting the 4th respondent is correct. But we appreciate the submission made by the applicant. He was most gracious even when pointed questions were asked of him. We appreciate the efforts put in by all the counsels and especially the learned Advocate General of Karnataka.

7. Having found that the applicant's case is not meritorious enough to warrant our interdiction, the OA is dismissed. No order as to costs.

(C V SANKAR)
MEMBER (A)

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

/ksk/

Annexures referred to by the applicant in OA No.170/00591/2019

Annexure-A1: Copy of the notification dated 31.10.2017

Annexure-A2: Copy of the judgment of Hon'ble Supreme Court in WP No. 310/1996 dated 22.09.2006

Annexure-A3: Copy of the judgment of the Hon'ble Supreme Court in WP No. 310/1996 dated 23.08.2007
Annexure-A4: Copy of the judgment of the Hon'ble Supreme Court in WP No. 310/1996 dated 08.11.2010
Annexure-A5: Copy of the judgment of the Hon'ble Supreme Court in WP No. 310/1996 dated 06.12.2010
Annexure-A6: Copy of the notification dated 20.10.2012
Annexure-A7: Copy of the judgment of the Hon'ble Supreme Court in WP No. 310/1996 dated 03.07.2018
Annexure-A8: Copy of the judgment of the Hon'ble Supreme Court in WP No. 310/1996 dated 16.01.2019
Annexure-A9: Copy of the judgment of the Hon'ble Supreme Court in WP No. 310/1996 dated 13.03.2019
Annexure-A10: Copy of the judgment of the Hon'ble Supreme Court in WP No. 310/1996 dated 12.04.2019
Annexure-A11: Copy of the Ministry of Home Affairs order on appointment of Director General of Police (Head of Police Force) dated 01.02.2019

Annexures with rejoinder

Annexure-A12: Copy of the ordinance 2/2012

Annexures with reply statement of Respondent No. 4

Annexure-R1: Copy of the RTI reply dated 20.06.2019
Annexure-R2: Copy of the service details of 4th respondent and the applicant

Annexures with written argument note of the applicant

Annexure-A12: Copy of the range of experience of the applicant
Annexure-A13: Copy of the bio data of the 4th respondent
Annexure-A14: Copy of the objection in the form of affidavit filed in WP No. 16075/2011
Annexure-A15: Copy of the draft guidelines for empanelling officers for appointment as DGP (Chief of the Police)
Annexure-A16: Copy of the order in Civil Appeal No. 7561/2009
Annexure-A17: Copy of the judgment in M.A. Murthy Vs. State of Karnataka
Annexure-A18: Copy of the ordinance 2/2012
Annexure-A19: Copy of the Amendment Act 30/2012
Annexure-A20: Copy of the note sheet Para 80 to 90 of File DPAR 100 SPS 12 (P)

Annexure-A21: Copy of the Karnataka Government (Transaction of Business) Rules, 1977.

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