

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 180/00244/2018

Thursday, this the 7th day of November, 2019

C O R A M :

**Hon'ble Mr. E.K.Bharat Bhushan, Administrative Member
Hon'ble Mr.Ashish Kalia, Judicial Member**

K.P.Venugopalan,
Managing Director,
Aralam Farming Corporation (Kerala) Ltd.,
Aralam Farm P.O., Kannur – 679 673.
Residing at Kodakkatteni Puthiya Veetttil,
P.O.Chalakode, Payyannur, Kannur - 670 307. **... Applicant**

(By Advocate Mrs. R.Jagada Bai)

v e r s u s

1. The Union of India,
represented by the Secretary to Government of India,
Department of Personnel and Training,
Ministry of Personnel, Public Grievances and Pensions,
North Block, New Delhi – 110 001.

2. The Union Public Service Commission,
Represented by the Secretary, UPSC, Dholpur House,
Shajahan Road, New Delhi – 110 069.

3. The Selection Committee for Appointment of
Non State Civil Service Officers to IAS for the
year 2016, represented by its Chairman,
Office of the Union Public Service Commission,
Dholpur House, Shajahan Road, New Delhi – 110 069.

4. The State of Kerala represented by
the Chief Secretary to the Government,
Government of Kerala, Thiruvananthapuram – 695 001.

5. A.Alexander,
Labour Commissioner,
Labour Commissionerate,
Government of Kerala, Vikas Bhavan,
Thiruvananthapuram – 695 033. **Respondents**

(By Advocates, Mr.K.C.Muraleedharan, ACGSC [R-1],
Mr.Thomas Mathew Nellimoottil [R-2&3], Mr.M.Rajeev (GP) [R-4]
and Mr.T.B.Hood [R-5])

This application having been heard on 1st November, 2019, the Tribunal on 7th November, 2019 delivered the following :

ORDER

HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

O.A.No.180/244/2018 is filed by Shri.K.P.Venugopalan, Managing Director, Aralam Farming Corporation (Kerala) Ltd., under the Agriculture Department, Government of Kerala against his non selection by the Selection Committee for selection of Non State Civil Service (NSCS) Officers for appointment to the IAS in Kerala in select list for the year 2016. He is also aggrieved by notification dated 8.2.2018 issued by the Department of Personnel & Training appointing the 5th respondent as a Member of the Indian Administrative Service, Kerala Cadre. The reliefs he is seeking in the O.A are as follows :

1. Call for the records leading to the issue of Annexure A-2 and set aside Annexure A-2.
2. Declare that the applicant is entitled to be appointed to the Indian Administrative Service against the vacancies due for Non State Civil Service of Kerala to Indian Administrative Service, as determined by the Government of India for the select list of 2016 and direct the respondents to take action accordingly.

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3. Call for the records leading to the selection of the 5th respondent for appointment to Indian Administrative Service and set aside the selection and direct the 3rd respondent to reconsider the select list.

4. Grant such other reliefs as this Hon'ble Tribunal may deem fit, just and proper in the facts and circumstances of the case.

5. Call for the records leading to the issue of Annexure A-2(a) and the select list prepared pursuant to Annexure A-2(a) and set aside Annexure A-2(a) and the select list for the year 2016 in respect of one vacancy notified for Non State Civil Service of Kerala to Indian Administrative Service.

2. In the O.A., the applicant has detailed the procedure involved in the selection for appointment of non-SCS officers to the IAS, which is governed by IAS (Appointment by Selection) Regulations, 1997. As per the said Regulations, selection of a person for appointment to the service is done on the basis of scrutiny of service records and personal interview. The suitability of officers whose candidature is proposed by the concerned State Government is assessed by the Selection Committee headed by the Union Public Service Commission (UPSC). As per the guidelines prescribed by the UPSC, the Selection Committee, which consists of representatives of State Government as well as Government of India and is headed by the UPSC, shall distribute marks after assessing the service records at 50% weightage or 50 marks and personal interview at 50% weightage or 50 marks.

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3. For the year 2016, Government of India had determined one vacancy for appointment to the Kerala Cadre of the Indian Administrative Service in non-SCS category. The applicant satisfied all the eligibility criteria for being included and he was subjected to an interview by a Selection Committee headed by the Chief Secretary of the State which was held at Thiruvananthapuram on 27.12.2017. He was deemed successful in the interview and taking into account the fact that there was one vacancy for which a list five times the number could be offered to the UPSC, the applicant was also included in the zone of consideration. Finally, the five aspirants appeared for the Selection Committee Meeting held at New Delhi on 27.12.2017 and the aspirants included the applicant as well as the 5th respondent. The grievance of the applicant is that while his ACRs for the preceding five years ought to have fetched him 48 marks out of 50 marks and despite his excellent performance in the interview, the 5th respondent who had scored less marks than him in the first component ie., service records, was given more marks in the interview and was accordingly selected.

4. The notification appointing the 5th respondent to the IAS is copied at Annexure A-2. A copy of the minutes of the Selection Committee which made the recommendations for appointment of the 5th respondent is at Annexure A-2(a). The mark sheet attached

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to the minutes reveals that the applicant and the 5th respondent were both awarded 40 marks in the CR Assessment Matrix. Having scored 35 marks in the interview to the applicant's 33 marks, the 5th respondent was successful in securing 75 total marks whereas the applicant came short, scoring only 73 marks. The applicant claims that on the basis of his CR Assessment, he was entitled to 48.82 marks whereas only 40 marks was awarded to him. He submitted a complaint to the competent authority, a copy of which is at Annexure A-3. But this was to no avail.

5. The applicant maintains that in terms of eligibility, he had long and varied experience across several departments and had adequate experience in handling natural calamities and had ensured peoples participation in Plan Programmes. He is of the view that extraneous factors has weighed in to eliminate his chances.

6. The 4th respondent has filed a reply statement wherein it has been stated that the applicant was indeed one of the officers who constituted the zone of consideration after the Selection Committee at the State put together the zone of consideration comprising of the five eligible aspirants for the sole available vacancy. It was the Selection Committee headed by the UPSC and consisting of representatives of Government of India as well

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as State Government which ultimately decided on the selection after interviewing each of the candidates and after examining their service records.

7. The UPSC, 2nd and 3rd respondents, have filed their reply statement detailing the procedure involved in the selection. After the State Government submits the names and details of officers who are in the zone of consideration, which is five times the number of vacancies for a particular year, a Selection Committee headed by the UPSC and consisting of the representatives of the State Government as well as Government of India interview each candidate. Equal weightage is given to service records of the candidates as well as to his/her performance in the interview. This pattern was duly followed in this case also. The selection of the 5th respondent was made on this basis after duly assessing the service records and individual performance at the interview by each candidate. As made out in the O.A., the applicant scored 40 marks out of 50 marks in the assessment of his service records and 33 marks out of 50 marks for his interview whereas the selected candidate, the 5th respondent, scored 40 marks for his CR Assessment and 35 marks for his interview. Thus the total marks awarded was 75 marks for the successful candidate whereas the applicant could get only 73 marks.

8. The respondents have cited various judgments of the Apex Court that discourages interference in proceedings of duly constituted Selection Committees. They are :

1. **UPSC v. H.L.Dev & Ors. [AIR 1988 SC 1069]**
2. **M.V.Thimmaiah & Ors. v. Union of India & Ors. [Civil Appeal No.5883-5891 of 2007]**
3. **Nutan Arvind v. Union of India & Ors. [(1996) 2 SCC 488]**
4. **Dalpat Abasaheb Solanke v. B.S.Mahajan [AIR 1990 SC 434]**

9. The 5th respondent has also filed a reply statement which is in line with the contentions of the official respondents.

10. Heard Shri.Vishnu.S.Chempazhanthiyil representing Smt.R.Jagada Bai, learned counsel for the applicant, Shri.K.C.Muraleedharan, ACGSC for Respondent No.1, Shri.Thomas Mathew Nellimoottil for Respondent Nos.2&3, Shri.M.Rajeev, GP for Respondent No.4 and Shri.T.B.Hood for Respondent No.5. We have perused the pleadings and documents available on record. The issue remains in a narrow compass. The applicant, who belonged to the zone of consideration for selection of officers for the sole non-SCS vacancy for Kerala Cadre, 2016, is aggrieved by the fact that the 5th respondent was selected, disregarding his claim. He maintains in the O.A that this was on account of lesser marks

being awarded to him for his service records. He claims that he is entitled to more than 40 marks for his 'outstanding' grading he acquired during the five preceding years. The Selection Committee accounted for only 40 marks for this category equating him with the 5th respondent. He submits that in the Selection Committee at the State Level the pattern adopted of awarding 10 marks for each 'outstanding' ratings, 8 marks for 'very good' ratings etc. saw him acquiring 48.71 marks out of 50 marks. But the Selection Committee headed by the UPSC is not expected to mechanically import the marks awarded for this head by the State Level Committee. In any case, three representatives of the State Government including the Chief Secretary of the State was present at the Selection Committee Meeting headed by the UPSC which awarded him only 40 marks. The 5th respondent who scored marginally more marks for the interview got selected for the vacancy.

11. On an examination of all the facts brought before us, we cannot conclude that any arbitrariness or illegality has taken place in this case. As pointed out in the reply statement of the UPSC, great caution is to be exercised while examining the merits of such claim as the applicant's in a matter where a duly constituted Selection Committee has concluded the selection. The Committee was at liberty to devise its own criteria subject to the larger framework indicated in the Rules and the Committee in

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question has not exceeded its brief by making its own assessment after examining the service records of the aspirants and then subjecting them to personal interview. Due to these reasons, we conclude that the O.A is bereft of merits and it fails. The O.A is accordingly dismissed. No order as to costs.

(Dated this the 7th day of November 2019)

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in O.A. No.180/00244/2018

- 1. Annexure A1** - True copy of the Bio-data of the applicant.
- 2. Annexure A2** - True copy of the communication No.F.No.14015/12/12017-AIS(I)-B dated 08.02.2018 issued by the 5th respondent.
- 3. Annexure A2(a)** - True copy of the minutes of the Selection Committee held on 27.12.2017.
- 4. Annexure A3** - True copy of the complaint dated 08.02.2018 submitted by the applicant.
- 5. Annexure A4** - True copy of the Selection procedure prescribed by the UPSC vide No.4/4/2017-AIS.
- 6. Annexure A5** - True copy of The Indian Administrative Service (Appointment by Selection) Regulations 1997.
- 7. Annexure A6** - True copy of the assessment of the ACR of the applicant, in terms of the guidelines of the UPSC.
- 8. Annexure A7** - True copy of the assessment of the ACR of the applicant, in terms of the guidelines of the UPSC.
- 9. Annexure R4(a)** - True copy of G.O.(Ms) No..106/2014/GAD dated 05.05.2014.
- 10. Annexure R4(b)** - True copy of Minutes and assessment sheet of the meeting held on 07.11.2017.
