

**Central Administrative Tribunal
Principal Bench**

**OA No.412/2019
MA No.674/2019
MA No.3577/2019**



New Delhi, this the 18th day of December, 2019

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

Sh. Sunil Kumar Panda,
S/o Sh. Laxminarayan Panda,
At Present working as :
Chief Engineer (Electrical),
R/o Plot No.SJN-B/1, Sahayog Nagar,
PO, Budharaja, Sambalpur, Odisha.

...Applicant

(By Advocate : Shri Barun Kumar Sinha with Ms. Pratibha Sinha)

Versus

1. Union of India,
Through its Secretary,
Dept. Of Personnel & Training,
North Block, New Delhi-110001.
2. Union Public Service Commission,
Through its Chairman,
Dholpur House, Sahajan Road,
New Delhi.
3. State of Odisha,
Through its Chief Secretary,
Bhubaneswar, Dist. Khurda-751001,
Odisha.
4. Sh. Suresh Chandra Dalai, OSE,
Executive Engineer (Civil), Prachi Division,
Bhubaneswar, Odisha,
Through State of Odisha.

5. Sh. Prasana Kumar Jena, OCS,
Addl. Auditor General of Cooperative Societies,
O/o the Directorate of Cooperative Audit,
Odisha, Bhubaneswar,
Through State of Odisha.

...Respondents

(By Advocates : Shri C. Bheemanna, Shri R.V. Sinha, Ms. Aruna V. Patnaik and Ms. Samya Chatterjee, and Shri Prateek Tushar Mohanty)



ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicant is working as Superintending Engineer (Electrical) in the Government of Odisha. The process for appointment to the IAS from the category of State Civil Services for the years 2013 was taken up. There is a provision for consideration of the cases of Non State Civil Service (NSCS) Officers also, subject to certain limits. The applicant belongs to that category. At the relevant point of time, two vacancies were allocated for that category. A list of eight eligible candidates was prepared in this behalf. One Mr. Bijay Kumar Mishra filed OA No.907/2013 before the Cuttack Bench of the Tribunal, complaining the non inclusion of his name. The OA was allowed and, ultimately, his name was included. The name of the applicant and the fourth respondent were already there in the list.



2. The Screening Committee met on 16.12.2016. It has selected respondents No.4&5 against the category of NSCS Officers and orders of appointment were issued on 13.01.2017. Earlier, the applicant filed OA No.176/2017, challenging the very selection process. The OA was dismissed as withdrawn on 03.01.2019, by taking note of the fact that the appointment of respondents No.4&5 was not challenged. Accordingly, the present OA is filed challenging the appointment of respondents No.4&5 to the IAS from the category of NSCS.

3. The principal contention urged by the applicant is that the 4th respondent was imposed the punishment of 'Censure' through order dated 14.01.2003 and he was not eligible to be considered for a period of 10 years. According to him, such disqualification was in operation when the DPC met. The applicant submits that but for the inclusion of the name of the 4th respondent, he stood a chance for being selected.

4. The respondent Nos.2,3&4 filed separate counter affidavits. According to them, the State Government has forwarded a communication to the effect that the 4th



respondent was not facing any criminal proceedings or departmental proceedings for the past 10 years and accordingly his name was included. It is stated that the name of the 4th respondent was included in the list of eligible candidates in the year 2013 and the applicant did not raise any objection, at that time, and that he is precluded from raising it now.

5. We heard Shri Barun Kumar Sinha, learned counsel for applicant and Shri C. Bheemanna, Shri R.V. Sinha, Ms. Aruna V. Patnaik and Shri Prateek Tushar Mohanty, learned counsel for respondents.

6. The selection and appointment to IAS from the category of NSCS officers of the State of Odisha, which was to take place in the year 2013, was prolonged, on account of a litigation ensued in this behalf. OA No.907/2013 was filed before the Cuttack Bench of the Tribunal by an NSCS officer, complaining that his name was not included. It is pertinent to mention here that the names of the respondents No.4&5 were very much there from the beginning. The applicant did not raise any objection for the inclusion of the names of respondents No.4&5 in the year 2013. The occasion for the Screening Committee to

consider the selection of the candidates arose in the year 2013. As many as eight candidates were considered and respondents No.4&5 were selected.



7. It is fairly well settled that the Tribunal or any Court cannot sit in an appeal over the decision taken by the Selection Committee. Further the applicant could have grievance vis-a-vis the respondents No.4&5, if only he is figured below them in the eligibility list. The applicant figured above the respondents No.4&5, and it is only after the applicant was not found fit by the Selection Committee that the choice is fallen upon the respondent No.4. The applicant categorically stated that he has no grievance against respondent No.5.

8. We do not find any merit in the OA and the same is accordingly, dismissed.

Pending MAs, if any, shall stand disposed of.

There shall be no orders as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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