

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.08.2016

CORAM :

THE HON'BLE MR.JUSTICE A.SELVAM

AND

THE HON'BLE MR. JUSTICE P.KALAIYARASAN

W.P.No.11323 of 2014

Andrews Ponnuraj Vairamani

.. Petitioner

Vs.

1. The Union of India
rep.by the Secretary
(Personnel and Training)
Ministry of Personnel,
Public Grievance and Pension
New Delhi 110 001
2. The Union Public Service Commission
Dholpar House, Shajahan Road
New Delhi 110 069
3. The Chief Secretary to
Government of Tamil Nadu
Fort St.George
Chennai 600 009
4. The Principal Secretary to Government
of Tamil Nadu
Micro, Small & Medium Enterprises Department
Fort St.George
Chennai 600 009
5. The Commissioner of Industries and Commerce
No.36, South Canal Bank Road
Mandavelipakkam, R.A.Puram
Chennai 600 028
6. M.Ravikumar
7. L.Subramaninan
8. K.Vivekanandan
9. A.Gnanasekaran
10. The Registrar
Central Administrative Tribunal
Madras Bench, Madras

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus to call for the records relating to the order dated 5.2.2014 made in O.A. No.101 of 2012 passed by the Central Administrative Tribunal, Madras and quash the same and consequentially direct the respondents 1 to 5 to include the petitioner's name in the panel for promotion to the Post of I.A.S. Conferment by Selection under Non-State Civil Services of Tamil Nadu for the year 2011 with all other consequential benefits.

For Petitioners : Mr.V.Ravichandran
For Respondents : Mr.D.Ramesh Kumar,
ACGSC for R1
Mr.A.T.Arunan for R2
Mr.A.L.Somayajee,
Advocate General
assisted by Mr.N.Srinivasan,
Additional Government Pleader
for R3 to R5
Mr.Vijay Narayan, Senior Counsel for
Mr.R.Parthiban for R6 to R9
R10 - Tribunal

ORDER

(Order of the Court was made by A.SELVAM, J.)

This Writ Petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for records relating to the order dated 5.2.2014 passed in Original Application No.101 of 2012 by the Central Administrative Tribunal, Madras Bench, Madras and to quash the same.

2. The petitioner herein, as applicant, has filed Original Application No.101 of 2012 on the file of the Central Administrative Tribunal, Madras Bench, Madras, praying to direct the respondents 1 to 3 to consider his representation given during the year 2011 so as to include his name in the panel of promotion of conferment of Indian Administrative Service for the year 2011 in Non-State Civil Services category of Tamil Nadu Government, as recommended by the respondents 4 and 5 within a reasonable time, wherein the present respondents have been shown as respondents.

3. It is averred in the Original Application that the applicant has been appointed as Assistant Director on 17.6.1987 in the office of the fifth respondent. During the year 1996-2011, the applicant has given various representations to the respondents 1 to 5 so as to give conferment of IAS Non-State Civil Services to him, but the same have not been considered. Now the applicant has been serving as Additional Director in the

same Department. Under the said circumstances, the present Original Application has been filed for getting the relief sought therein.

4. The Central Administrative Tribunal, after considering the rival contentions put forth on either side, has dismissed the Original Application No.101 of 2012 by way of passing the impugned order and the same is being challenged in the present writ petition.

5. The learned senior counsel appearing for the petitioner/applicant has contended that the petitioner has joined service as an Assistant Director on 17.6.1987 and even though he has done meritorious and also outstanding service, his name has not been included in the panel for the year 2011 in Non-State Civil Services category. Under the said circumstances, the present Original Application has been filed. Further, the respondent No.8, viz., Mr.K.Vivakanandan has faced both the civil and criminal enquiries and his name has been included, whereas even though the petitioner has done meritorious as well as outstanding service, his name has not been included in the panel. Under the said circumstances, the present Original Application No.101 of 2012 has been filed and the Central Administrative Tribunal, has erroneously dismissed the same and therefore, the impugned order passed by the Central Administrative Tribunal is liable to be quashed.

6. The learned Advocate General appearing for the respondents 3 to 5 has sparingly contended that before including a competent person in the concerned panel, a Screening Committee has been established by the State Government and they fixed marks for outstanding, very good, good, average/satisfactory and below average and along with the writ petitioner, the names of 37 persons have been considered and out of 37 persons, 20 persons have been included in the panel as per marks awarded to them. The petitioner has been awarded only 3.26 marks and therefore his name has not been considered and the Central Administrative Tribunal, after considering the method of selection done by the State Government and also after considering that the petitioner has obtained only 3.26 marks, has rightly dismissed the Original Application by way of passing the impugned order and therefore, the impugned order passed by the Central Administrative Tribunal, Madras Bench, does not require any interference.

7. The learned senior counsel appearing for the respondents 6 to 9 has also equally contended that the respondents 6 to 9 have not been awarded with any minor/major punishment and on the basis of their meritorious as well as outstanding service, they have been given the required marks and therefore, their names have been included in the panel. Under the said circumstances,

the selection of the respondents 6 to 9 cannot be challenged and altogether, the present Writ Petition deserves to be dismissed.

8. As pointed out earlier, the specific relief of the writ petitioner in Original Application No.101 of 2012 is to direct the respondents 1 to 3 to consider his representation given during the year 2011 as per recommendation of the 5th respondent dated 30.6.2011 so as to include his name in the panel for promotion of conferment of Indian Administrative Service for the year 2011 under Non-State Civil Services category of Tamil Nadu Government, as recommended by the respondents 4 and 5 within a reasonable time, and consequently to set aside the impugned Notification dated 20.2.2012 issued by the first respondent insofar as the petitioner is concerned and direct the respondents 1 to 3 to include the name of the petitioner in the selection list published by the first respondent and set aside the illegal ranking of officers recommended by the 5th respondent vide his letter dated 30.6.2011.

9. The Central Administrative Tribunal, after considering the method of selection to include the persons in the panel as well as marks obtained by the petitioner, has dismissed the Original Application No.101 of 2012.

10. As per the direction given by this Court, the learned Advocate General appearing for the respondents 3 to 5 submitted the concerned selection file and this Court has closely perused the same. For the purpose of selecting suitable candidates, a Screening Committee has been established, wherein separate marks have been given in categorywise, viz., outstanding, very good, good, average/satisfactory and below average. Further, it is seen from the records that along with the petitioner, the names of 37 persons have been considered and finally, the names of 20 persons have been included in the panel. Further, it is seen from the records that the petitioner has obtained only 3.26 marks. Under such circumstances, the Screening Committee has not included the name of the petitioner.

11. Considering the fact that the State Government has formed a Screening Committee so as to include suitable candidates in the concerned panel and the Screening Committee has fixed marks for each category and in that process, the petitioner has obtained 3.26 marks, this Court is of the view that the process done by the Screening Committee is perfectly correct and the same does not suffer from any infirmity.

12. The Central Administrative Tribunal, in its order dated 5.2.2014, at paragraph No.19 has observed as follows:

"Under Indian Administrative Service (Appointment by selection) Regulations 1997, the State Government is

required to submit a list of suitable officers, not belonging to the State Civil Service but serving in connection with the affairs of the State, having outstanding merit and completed not less than 8 years of service under the State Government. The number of persons proposed to be considered by the Selection Committee should not exceed 5 times of the number of vacancies to be filled during that year. For the year 2011, there were 4 vacancies and the State Government was required to send names of 20 officers. The State Government had received 37 names recommended by various Heads of Departments. The State Government had set up a Screening Committee headed by the Chief Secretary and having two more members in the rank of Chief Secretary for the purpose of short listing the candidates to finalise the list of 20 names to be forwarded to the UPSC for appointment by selection. Admittedly, the Screening Committee has ranked the officers based on the "outstanding", "very good" gradings in the last 5 years in the ACRs. As per the marks awarded based on the number of 'outstanding', 'very good', 20 names were finalized. The last candidate who was selected has secured 4.43 whereas the applicant has got 3.26. Even though the applicant has contended that he had made contributions to the department in the form of useful suggestions, the claims are not substantiated and there is no record to show that either the department or the Government has issued any letter of appreciation acknowledging his contributions. In the absence of such documentary evidence, the claims of the applicant cannot be acted upon by any Committee set up for the purpose of evaluating such contributions. Moreover, it is also the fact that annual confidential reports written by the immediate higher official and reviewed by the competent authority, should normally contain references to such achievements and special contributions. In this case, the last five years ACRs do not speak of such contributions. We are of the considered view that the Screening Committee adopted the approved method of counting the number of "outstanding" and "very good" gradings in the ACRs and ranked the candidates as per the marks awarded based on such gradings in the last five years. Reporting officers, reviewing officers and accepting authorities for any given officer would be different for different periods and as such the ACRs for the last five years which formed the basis for evaluating the officers could be reasonably considered as being free from any bias. The Screening Committee has adopted the approved method of short listing of candidates to be

recommended to the Selection Committee. We find that there is no arbitrariness involved in this process. The allegation that external influences were brought upon over th selection process remains unsubstantiated and moreover, we find that the Screening Committee has evaluated the merit of the candidates and ranked them based on the gradings in their ACRs for the last five years."

13. Even from a cursory look of the observations made by the Central Administrative Tribunal, this Court is of the considered view that the claim of the petitioner cannot be entertained.

14. As mentioned earlier, the learned counsel appearing for the writ petitioner has also attacked the selection of the respondents 6 to 9, but no documents have been filed for the purpose of proving that the respondents 6 to 9 have faced both the departmental as well as criminal enquiries. Under such circumstances, this Court is of the view that the contentions put forth on the side of the writ petitioner against the respondents 6 to 9, cannot be accepted.

15. Even at the risk of repetition, the Court would like to point out that, as rightly pointed out on the side of the respondents 3 to 5, a proper screening committee has been formed and proper marks have been awarded for suitable candidates and since the petitioner has not obtained the required mark, he has not been selected. Therefore, viewing from any angle, the claim of the petitioner cannot be accepted. The Central Administrative Tribunal, after considering the rival contentions put forth on either side, has rightly passed the impugned order and in view of the discussions made earlier, this Court has not found any valid ground to make interference with the well merited order passed by the Central Administrative Tribunal and therefore, the present Writ Petition deserves to be dismissed.

In fine, this Writ Petition is dismissed without cost. The order dated 5.3.2014 passed in Original Application No.101 of 2012 by the Central Administrative Tribunal, Madras Bench, Madras is hereby confirmed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Secretary
(Personnel and Training)
Union of India
Ministry of Personnel,
Public Grievance and Pension
New Delhi 110 001
 2. The Union Public Service Commission
Dholpar House, Shajahan Road
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 3. The Chief Secretary to
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 6. The Registrar
Central Administrative Tribunal
Madras Bench, Madras
- +1 cc to Mr.M.Saravanakumar,advocate,sr.45631
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krd 24/8

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