

S.Bahuleyan Vs. Union of India

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Court : Kerala

Decided On : Jan-30-2013

Judge : Hon'Ble the Chief Justice Mrs. Manjula Chellur

Appellant : S.Bahuleyan

Respondent : Union of India

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HON'BLE THE CHIEF JUSTICE MRS. MANJULA CHELLUR & THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN WEDNESDAY, THE 30TH DAY OF JANUARY 2013 10TH MAGHA 193 OP (CAT).No. 396 of 2013 (Z) ----- AGAINST THE ORDER IN OA.748/2012 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH DATED PETITIONER: ----- S.BAHULEYAN AGED 5 YEARS S/O.SREEDHARAN,REVENUE DIVISIONAL OFFICER (RETD) KAILASAN T.C 48/1087 (4),VIKAS NAGAR,AMBALATHARA POONTHURA P.O,THIRUVANATHAPURAM 69 026. BY ADVS.SRI.M.V.BOSE SRI.VINOD MADHAVAN SMT.NISHA BOSE RESPONDENTS: ----- 1. UNION OF INDIA REPRESENTED BY ITS SECRETARY DEPARTMENT OF PERSONNEL AND TRAINING MINISTRY OF PERSONNEL PUBLIC GRIEVANCE AND PENSION NEW DELHI.

2. THE STATE OF KERALA REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM

3. THE PRINCIPAL SECRETARY TO GOVERNMENT REVENUE (C) DEPARTMENT, GOVERNMENT SECRETARIAT THIRUVANANTHAPURAM 69 001. R1 BY SRI.P.PARAMESWARAN NAIR, ASG OF INDIA R2 & R3 BY GOVERNMENT PLEADER SMT. GIRIJA GOPAL THIS OP (CAT) HAVING COME UP FOR ADMISSION ON 30-01-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: OP (CAT).No. 396 of 2013 (Z) APPENDIX PETITIONER'S EXHIBITS: EXT.P1 : TRUE COPY OF THE O.A NO. 748/2012 FILED BY THE PETITIONER EXT.P2 : TRUE COPY OF REPLY STATEMENT WAS FILED BY RESPONDENTS 2 AND 3 EXT.P3 : TRUE COPY OF REJOINDER FILED BY THE PETITIONER EXT.P4 : TRUE COPY OF THE ADDITIONAL REPLY STATEMENT FILED BY RESPONDENTS ON 19.11.2012 EXT.P5 : CERTIFIED COPY OF THE ORDER OF THE CENTRAL ADMINISTRATIVE TRIBUNAL RESPONDENTS' ANNEXURES: NIL //TRUE COPY// P.A. TO JUDGE jma Manjula Chellur, C.J.

& K.Vinod Chandran, J.

----- O.P(CAT)No.396 of 2013
----- Dated this, the 30th day of January, 2013

JUDGMENT

Vinod Chandran, J.: The petitioner is aggrieved by the order of the Central Administrative Tribunal, Ernakulam rejecting the claim raised for consideration for promotion to the Indian Administrative Service (IAS). The applicant was promoted as a Deputy Collector as on 16.4.1997 and he retired as Senior Grade Deputy Collector on 30.11.2007. His claim was that even before his retirement, there were vacancies available in the cadre and he ought to have been considered for promotion to the IAS on completion of eight years of service as Deputy Collector. The direction issued by the Tribunal in an earlier application, for consideration of the representation, was complied with by the Government of Kerala, rejecting the claim, which order dated 16.7.2012 he impugned before the Tribunal in the instant proceedings.

2. The fulcrum of the petitioner's contention was that his immediate senior who retired as Deputy Collector on 31.01.2009 was promoted, after retirement, and conferred 'IAS' OP(CAT)396 of 2013 :2: on 29.3.2011. Similar consideration ought to have been shown to him, was his contention. However, from the order of the Tribunal, it is apparent that, it was the claim of the respondent State that there were no vacancies for giving the petitioner conferment of the IAS as per the seniority list and eligibility criteria. The petitioner having completed 54 years of age as on 1.1.2006 and he being not senior enough to be included in the zone of consideration for promotion to the cadre of IAS during the year 2006; the petitioners claim is only to be rejected.

3. The promotion of his immediate senior was in a vacancy which arose during the year 2008 and even admittedly, no junior of the petitioner was promoted to the cadre of IAS. The promotion quota of IAS was revised, hiking it to 65 from 54 only on 5.5.2007 and the plea of the appellant that he ought to have been considered in the year 2006 fails. The contention of the petitioner that the additional posts actually accrued on 1.2.2006 was rightly found by the Tribunal, to be irrelevant since the revision of number of posts in the cadre was of 5.5.2007 and can only have prospective effect. In the circumstances, we are of the opinion that there is OP(CAT)396 of 2013 :3: absolutely no ground to interfere with the Tribunal's order and we dismiss the original petition leaving the parties to suffer their respective costs. Sd/- Manjula Chellur, Chief Justice Sd/- K.Vinod Chandran, Judge. //true copy// P.A to Judge jma