UMA CHARAN

v.

STATE OF MADHYA PRADESH AND ANR.

August 20, 1981

[A. D. KOSHAL, V. BALAKRISHNA ERADI AND R. B. MISRA, JJ.]

Indian Police Service (Appointment by Promotion) Regulations 1955—Regulation 5(5)—Scope of—Police Officer reverted to a lower rank—Reasons for reversion—Whether necessary to record.

On being selected by a Selection Committee constituted under the Indian Police Service (Appointment by Promotion) Regulations, 1955 the appellant, a Deputy Superintendent of Police prior to 13th April, 1960, was promoted as Superintendent of Police.

In September, 1963, purporting to act under regulation 5 of the Regulations, the Selection Committee recommended his supersession, along with some others, on the ground that the Committee considered that the records of "the officers were not such as to justify their appointment to the Indian Police Service at this stage". He was reverted in September, 1964.

Before the High Court the appellant contended that the Selection Committee's failure to specify the reasons for his supersession, in contravention of the Regulations, rendered the list *non est*. This plea was rejected.

Allowing the appeal:

HELD : The Select List reverting the appellant to a lower post prepared in accordance with the recommendations of the Selection Committee contravened the mandate in sub-regulation (5) of Regulation 5. [358 G]

Regulation 5(5) imposed a mandatory duty upon the Selection Committee to record its reasons for the proposed supersession. In the context of the protection conferred on public servants by articles 14 and 16 of the Constitution it was incumbent on the Selection Committee to have stated reasons in a manner which would disclose how the record of each officer superseded stood in relation to the records of others who were to be preferred. This is the only visible safeguard against possible injustice and arbitrariness in making selections. Had that been done it would have been possible to correlate facts on service records considered by the Selection Committee with the conclusions reached. [358 C]

A Reasons which are the links between the materials on which certain conclusions are based and the actual conclusions disclose how the mind is applied to the subject matter for a decision, They should reveal a rational nexus between the facts considered and the conclusions reached. [358 E]

Union of India v. *Mohan Lal Capoor & Ors.*, [1974] 1 SCR 797; applied.

B CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2173 of 1970.

From the judgment and order dated 29th October, 1969 of the Madhya Pradesh High Court in Misc. Petition No. 89 of 1967.

C *Gyan Chand Mathur* and *A.G. Ratnaparkhi* for the Appellant.

D.P. Mohanty and *R.A. Shroff* for Respondent No. 1.

The judgment of the Court was delivered by

D KOSHAL J. This is an appeal by certificate granted by the High Court of Madhya Pradesh against a judgment of a learned Single Judge of that Court dismissing with costs a petition filed by the present appellant under article 226 of the Constitution of India challenging his demotion from the post of Superintendent of Police to that of Deputy Superintendent of Police.

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2. The facts giving rise to the dispute between the appellant and the State of Madhya Pradesh are now admitted on all hands and may be briefly stated. Prior to 13th April 1960 the appellant was a member of the Madhya Pradesh State Police Service and was working as a Deputy Superintendent of Police. On that date a meeting of the Committee set up in accordance with regulation 3 of the India Police Service (Appointment by Promotion) Regulations, 1955 (hereinafter called the Regulations) was held, and therein was prepared a list of such members of the State Police Service as were eligible and suitable for promotion to the Indian Police Service. The said Committee is popularly known as the "Selection Committee" and will be so referred to hereinafter. The list was approved by the Union Public Service Commission and thus became the Select List as envisaged in regulation 7 of the Regulations. The appellant was accordingly promoted to the Indian Police Service and was posted as a Superintendent of Police which position he held till the impugned reversion effected by an order dated 11th September, 1964. The reason for that reversion was that on the 18th of

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September 1963 the Selection Committee reviewed the Select List, purporting to act in accordance with regulation 5 of the Regulations and recommended that the appellant and 27 others be superseded. The sole ground for the supersession was thus stated by the Selection Committee:

> "The Committee consider that, on an overall assessment, the records of these officers are not such as to justify their appointment to the Indian Police Service at this stage."

3. The reversion of the appellant was challenged before the High Court with the contention inter alia that the ground set out by the Selection Committee in that behalf did not specify any reason, good, bad or indifferent, for his supersession, that under regulation 5 of the Regulations it was duty of the Selection Committee to record reasons and that that not having been done the review of the Select List made on the 18th of September, 1963 was clearly in contravention of the Regulations and, therefore, as good as *non-est.* Th contention was turned down by the learned Single Judge of the High Court, who dismissed the appellant's petition, with the following observations:

> "The contention of learned counsel for the applicant that the giving of reasons under sub-regulation (5) of regulation 5 for superseding an officer makes the order justiciable, does not appeal to us. It is not for the Court to see whether the reasons given by the Committee are sufficient or not, but it is for the State Government and the Ceutral Public Service Commission to see the sufficiency of the reasons."

The contention thus rejected has been reiterated before us.

4. Regulations 5 and 7 of the Regulations may be reproduced here with advantage:

> "5. *Preparation of a list of suitable officers.*
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> (1) The Committee shall prepare a list of such members of the State Police Service as satisfy the condition specified in regulation 4 and as are held by the Committee to be suitable for promotion to the Service.

(2) The selection for inclusion in such list shall be based on merit and suitability in all respects with due regard to seniority.

(3) The names of the officers included in the list shall be arranged in order of seniority in the State Police Service;

Provided that any junior officer who in the opinion of the Committee is of exceptional merit and suitability may be assigned a place in the list higher than that of officers senior to him.

(4) The list so prepared shall be reviewed and revised every year.

(5) If in the process of selection, review or revision it is proposed to supersede any members of the State Police Service, the Committee shall record its reasons for the proposed supersession."

7. *Select List.*

(1) The Commission shall consider the list prepared by the Committee along with the other documents received from the State Government and, unless it considers any change necessary, approve the list.

(2) If the Commission consider it necessary to make any changes in the list received from the State Government, the Commission shall inform the State Government of the changes proposed and after taking into account the comments, if any, of the State Government, may approve the list finally with such modification, if any, as may, in its opinion, be just and proper.

(3) The list as finally approved by the Commission shall form the Select List of the members of the State Police Service.

(4) The Select List shall ordinarily be in force until it is reviewed or revised in accordance with sub-regulation (4) of regulation 5 :

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> Provided that in the event of a grave lapse in the conduct or performance of duties on the part of any member of the State Police Service included in the Select List, a special review of the Select List may be made at any time at the instance of the State Government and the Commission may, if it so thinks fit, remove the name of such member of the State Police Service from the Select List."

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It is not disputed that a Select List may be reviewed as stated in sub-regulation (4) of regulation 7 read with sub-regulation (5) of regulation 5. So all that has to be determined is whether the Selection Committee was bound to give reasons for the supersession of the appellant and whether the note recorded by it which sets out the ground for supersession does give any reason at all.

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The matter is really covered by a decision of this Court in *Union of India* v. *Mohan Lal Capoor and Others.*(1) In that case also the ground set out by the Selection Committee for the proposed supersession was :

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> "On an over all assessment, the records of these officers are not such as to justify their appointment to the Indian Administrative Service/Indian Police Service at this stage in preference to those selected."

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Except for the words "in preference to those selected" the ground just above set out is identical with the ground given by the Selection Committee in the case of the appellant. Rejecting this ground as being no statement of reasons within the meaning of sub-regulation (5) of regulation 5, Mathew, J., speaking for the Court, observed :

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> "We next turn to the provisions of Regulation 5 (5) imposing a mandatory duty upon the Selection Committee to record "its reasons for proposed supersession". We find considerable force in the submission made on behalf of the respondents that the "rubber-stamp" reason given mechanically for the supersession of each officer does not amount to "reasons for the proposed supersession."

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(1) [1974] 1 SCR 797.

A the most that could be said for the stock reason is that it is a general description of the process adopted in arriving at a conclusion. This apology for reasons to be recorded does not go beyond indicating a conclusion in each case that the record of the officer concerned is not such as to justify his appointment "at this stage in preference to those B selected".

"In the context of the effect upon the rights of aggrieved persons, as members of a public service who are entitled to just and reasonable treatment, by reason of protections conferred upon them by articles 14 and 16 of the Constitu- C tion, which are available to them throughout their service, it was incumbent on the Selection Committee to have stated reasons in a manner which would disclose how the record of each officer superseded stood in relation to records of others who were to be preferred, particularly as this is practically the only remaining visible safeguard against D possible injustice and arbitrariness in making selections. If that had been done, facts on service records of officers considered by the Selection Committee would have been correlated to the conclusions reached. Reasons are the links between the materials on which certain conclusions are based and the actual conclusions. They disclose how E the mind is applied to the subject matter for a decision whether it is purely administrative or quasi-judicial. They should reveal a rational nexus between the facts considered and the conclusions reached. Only in this way can opinions or decisions recorded be shown to be manifestly just and reasonable. We think that it is not enough to say that F preference should be given because a certain kind of process was gone through by the Selection Committee. This is all that the supposed statement of reasons amounts to. We, therefore, think that the mandatory provisions of Regulation 5 (5) were not complied with."

G With respect we fully agree and hold that the Select List prepared in accordance with the recommendations of the Selection Committee made in its meeting held on the 18th of September 1963 contravened the mandate in sub-regulation 5 of regulation 5.

H 5. In the result we accept the appeal, set aside the impugned judgment and quash the Select List just above mentioned in so far

as it relates to the appellant, as also the order of his reversion. He shall be entitled to all consequential benefits even though he has since retired from service. In the circumstances of the case, however, we leave the parties to bear their respective costs. A

P.B.R. *Appeal allowed.* B