

(2010) 08 KL CK 0011

In the High Court Of Kerala

Case No : Writ Petition (C) No. 15987 of 2010 (S)

Dr. P.N. Premachandran, Managing Director

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 17-08-2010

Acts Referred:

All India Services Act, 1951 — Section 3

All India Services Rules — Rule 143, 8

Guruvayoor Devaswom Act, 1978 — Section 14, 3, 33, 4

Citation : (2010) 08 KL CK 0011

Hon'ble Judges : M.L. Joseph Francis, J;K.M. Joseph, J

Bench : Division Bench

Advocate : Sumathy Dandapani, for the Appellant; O.V. Radhakrishnan, for the Respondent

Judgement

K.M. Joseph, J.—Common questions having arisen in these Writ Petitions, we are disposing of the same by this common Judgment.

2. The controversy relates to the selection to the Indian Administrative Service in relation to two vacancies arising in respect of non civil service Officers.

WP(C). No. 15987/2010 (FACTS):

Petitioner was the applicant in OA. No. 184/2010 of the Central Administrative Tribunal, Ernakulam Bench. Regulation 4 of the Indian Administrative Service (Appointment by Selection) Regulations, 1997 (hereinafter called the Regulations) reads as follows:

4. State Government to send proposals for consideration of the Committee:

(1) The State Government shall consider the case of a person not belonging to the State Civil Service but serving in connection with the affairs of the State who,

i) is of outstanding merit and ability; and

ii) holds a Gazetted post in a substantive capacity; and

iii) has completed not less than 8 years of continuous service under the State Government on the first day of January of the year in which his case is being considered in any post which has been declared equivalent to the post of Deputy Collector in the State Civil Service and propose the person for consideration of the Committee. The number of persons proposed for consideration of the Committee shall not exceed five times the number of vacancies proposed to be filled during the year:

Provided that the State Government shall not consider the case of a person who has attained the age of 54 years on the first day of January of the year in which the decision is taken to propose the names for the consideration of the Committee.

Provided also that the State Government shall not consider the case of a person who, having been included in an earlier Select List, has not been appointed by the Central Government in accordance with the provisions of regulation 9 of these Regulations.

It is in terms of this Regulation that the Government of Kerala sent a proposal for consideration of the Committee which is the Committee constituted under the Regulations. This was done vide Annexure R5(6) dated 23.11.2009. Among the recomendees are Respondents 5, 6 and 7. Petitioner was not recommended by the State. Petitioner was working as the Additional Director of Soil Survey. Apparently, in the meantime, the Petitioner was placed under suspension by order dated 26.9.2009. Petitioner preferred an Appeal against the same. He filed In the same, this Court directed the Appellate Authority to take a decision. The Appellate Authority decided to revoke the suspension of the Petitioner by order dated 26.11.2009 and to reinstate him into service pending disciplinary action and without prejudice to the merits of the case and to post him on deputation basis as Managing Director of the Small Farmers Agri-Business Consortium. Petitioner thereupon filed.

Therein, an interim order dated 30.11.2009 came to be passed, WPC. Nos. 15987 & 16966/10 4 directing the State of Kerala to include the name of the Petitioner at the appropriate place in the list of eligible candidates for selection to IAS (2009 - 2010) and to forward the list to the Government of India. It is made clear in the interim order that it was to be subject to the further orders in the Writ Petition. We notice that it is, inter alia, stated by the learned Single Judge that in view of the order dated 26.11.2009 by which the Petitioner's suspension was revoked and so far no memo of charges had been issued to him, the reason for his exclusion cannot survive any more, prima facie. Thereupon, the Selection committee proceeded to consider the claims of the eleven candidates. The deliberations of the Selection Committee culminated in the Respondents 5 to 7 being ranked above the Petitioner, that is to say, the fifth Respondent was placed in the first position, the sixth Respondent was placed in the second position, the seventh Respondent was placed in the third position and the Petitioner was placed in the fourth position. It is apparently being aggrieved by the same that

the Petitioner filed OA.No.184 of 2010 seeking the following reliefs:

- "i. Call for the records relating to the case and declare that the inclusion of the name of Respondents 5 to 7 in the zone of consideration and in the select list is null and void;
- ii. Issue an order setting aside the select list prepared by the Selection Committee so far as Respondents 5 to 7 as 1 to 3 in the selection to the Indian Administrative Service;
- iii. Issue a direction, directing the Respondents 1 to 4 to include the name of the applicant for selection to the Indian Administrative Service as the first person in the select list and finalise the selection on the basis of the same;
- iv. Issue a direction, directing the Respondents 1 to 4 to delete the 10 marks given to Respondents 5 to 7 as per the stipulations contained under the head 5(ii) and 5(iii) of A4 Guideline issued by Government;
- v. Issue a direction, directing the first Respondent to submit all the files relating to the selection for the kind perusal of this Honourable Tribunal;
- vi. Issue a direction, directing the Respondents 3 and 4 to consider Annexure A25 and A26 representations submitted by the applicant, forthwith, before finalizing the select list."

The parties settled their pleadings and the Tribunal has vide the impugned order, dismissed the Application.

3. W.P.(C). No. 16966 OF 2010 (FACTS)

The writ Petitioner is the seventh Respondent in As already noted, she is placed in the third position by the Selection Committee of the UPSC. Petitioner challenges the select list by which the second rank is accorded to the seventh Respondent herein. The further prayer is to delete the ten marks given to the seventh Respondent for his good service entry. Petitioner filed O.A. No. 118 f 2010 wherein the prayers were as follows:

- "a) Set aside the the select list prepared by the Selection Committee by giving Rank No. 2 to the 7th Respondent for the selection to the Indian Administrative Service;
- b) Direct the Respondents to delete 10 marks given to the 7th Respondent for good service entry given to him regularly for recommending his candidature for inclusion in the zone of consideration for selection to the Indian Administrative Service and declare the inclusion of the 7th Respondent in the zone of consideration, null and void;
- c) Direct the Respondents to include the name of the applicant in the select list for appointment to the Indian Administrative Service."

The Tribunal has dismissed the Application filed by the Petitioner.

4. The Government of Kerala has issued Guidelines (hereinafter called the Guidelines) for assessment of the performance of eligible candidates for inclusion in the zone of consideration for selection to the Indian Administrative Service from non civil service Officers vide Order dated 1.4.2009. The earlier order is dated 24.1.2003. It is not in dispute that this Court in certain Writ Petitions expressed dissatisfaction about the absence of criteria for the Government to make a proper assessment of the eligible candidates. Consequently, by order dated 4.4.2008, a Committee was constituted for drawing up new guidelines which were to be consistent with the Regulations. Since the guidelines are crucial for resolving the lis between the parties, we advert to the same by extracting the same as under:

"1. Nomination of Officers fulfilling the conditions for selection is to be obtained from concerned Secretaries/Principal Secretaries under whom they are working at present.

2. The performance of the Officers nominated is to be assessed based on their completed Confidential Report for the last 5 years.

3. If Confidential Reports are not complete, a certificate stating reasons for the same is to be furnished by the recommending Officer.

4. In cases where two Officers are of more or less equal performance, the Confidential Reports for the past periods may also be examined.

5. A total of 100 marks is fixed for the various performances and the marks are distributed covering the following aspects:

(i) Maximum of 70 marks will be set apart for the performance appraisals. Each of the performance appraisals should be examined as to whether the reporting/reviewing Officers have carefully considered the performance of the Officer and whether the number of "A" Grades have been properly substantiated. For the purpose of computation of marks, "A"

Grade will be awarded five marks and "B"

Grade will be awarded four marks. In the instances where the reporting Officer has not substantiated the reasons for the number "A" Grades, there is no justification to consider such "A" Grade as superior to the WPC. Nos. 15987 & 16966/10 9 "B" Grade and hence in such a performance appraisal report, both the "A" and "B"

Grades may be given four marks each. This exercise is to be done for each of the performance appraisal reports for the total period under consideration and the average of the marks in respect of performance appraisals of the nominated Officer should be taken for the final reckoning.

(ii) Maximum of 10 marks will be awarded for any specific contribution made by the Officer in formulating implementing new initiatives and programmes of the department. For making an assessment on this aspect, one has to rely on the

objectivity with which the self assessment has been made by the Officer under consideration read together with the specific additional comments recorded by the reporting/reviewing Officers in their assessment. In the instances where claims made by the nominated Officer in the self appraisal has not been substantiated through the comments of the reporting/reviewing Officer the same need not be considered for the purpose of awarding these marks.

(iii) Maximum of 10 marks will be awarded for any good service entry awarded by the Government. For this purpose, only good service entry awarded by the Government through specific Government Order explicitly stating the reasons for the award of good service entry should be considered. Any other commendations given WPC. Nos. 15987 & 16966/10 10 by the Heads of Departments for the Officers should not be considered for the purpose of awarding these marks under this category.

(iv) Maximum of 10 marks will be awarded for the awards and other special distinctions earned by the nominated Officer at the State Level or at the National Level for excellence in public administration.

6. Punishments, if any awarded in the entire career of the Officer will be counted as disqualification.

7. The moderation envisaged in the Government Order for the maintenance of the Confidential Report is dispensed with in the case of consideration for IAS.

8. The reporting Officers should strictly adhere to the guidelines while evaluating the performance appraisal reports so as to ensure maximum objectivity in the process.

9. Chief Secretary will select suitable Officers based on the above Guidelines for inclusion in the zone of consideration for selection to IAS from among the nominations received from the Secretaries/Principal Secretaries."

It was purporting to follow the said guidelines that the recommendations were made by the State Government which we have already adverted to. Since there were two vacancies and WPC. Nos. 15987 & 16966/10 11 the Regulations provide that there should not be more than five times the number of vacancies, the names of ten persons including Respondents 5 to 7 in W.P.(C). No. 15987/2010 were recommended as already noted. Apart from them, the name of the Petitioner in was also sent up.

5. Contentions in Smt. Sumathy Dandapani, learned senior counsel appearing for the Petitioner would contend that the fifth Respondent secured 79.2 marks out of 100 on an evaluation purported to be done in terms of the guidelines. The sixth Respondent is shown entitled to 79 marks. The 7th Respondent is shown as entitled to 78.2 marks. We have already referred to Clause 5(ii) of the Guidelines. It is the case of the Petitioner that the party Respondents are not entitled to get ten marks which is awarded to them under Clause 5(ii). If they were not awarded the ten marks as aforesaid, the resultant position would be

that the State Government could not recommend their names and the Selection Committee and the UPSC could not, therefore, have WPC. Nos. 15987 & 16966/10 12 legally considered their names. Petitioner has a case that the Petitioner was wrongfully denied the benefit of ten marks under Clause 5(ii). It is more over contended that even without securing the ten marks, though the Petitioner was entitled to the same, the Petitioner still secured the highest marks. Thus, it is her case that if Respondents 5 to 7 are excluded, then the Petitioner would be at rank No. 1. Even if Respondents 5 and 6 alone were excluded, even then the Petitioner would be at the second position entitling him to be appointed to the Indian Administrative Service, as there are two vacancies. It is her case that the party Respondents are not entitled to get the benefit of the ten marks under Clause 5(ii) for the reason that they have not earned the marks provided therein by making any special contribution as provided therein. In this connection, she took us through the following findings of the Tribunal:

39. However, the challenge against the guidelines is that they are not followed strictly.

The applicant in OA No. 184/10 challenges the non- consideration of the data to substantiate his specific contribution and non-awarding of marks under 5(ii) of the guidelines. The Official WPC. Nos. 15987 & 16966/10 13 Respondents have not specifically contested the submission of the applicant. It was pointed out during hearing that he was given marks under 5(iii) and 5(iv). But giving marks under 5(iii) and 5(iv) does not justify not giving marks under 5(ii) if he is eligible for the same. If the Chief Secretary decided not to give marks under 5(ii) to the applicant, as he had already secured highest marks of 84.2 then, it is not according to the guidelines and it does not appear fair and just.

40. The contention of the applicants that Shri Ratheesan was wrongly awarded 10 marks for "good service entry" is admitted as a typographical error. The mark meant for his special contribution was wrongly entered in the column for "good service entry", which was rectified later. During hearing, it was submitted that the rectification was carried out on getting a complaint. This could be after the selection committee meeting on 31.12.2009. But, no correction is made in column 8 of the document in which the marks are awarded. As per records, 10 marks were awarded to Shri Ratheesan under column 9 for "good service entry" and not for "specific contribution". But the correction of typographical error said to have been made, is a mental exercise only. Taking into account the admitted typographical error, the contention of the applicant is that the Respondents 5 to 7 were wrongly awarded 10 marks for "specific contribution". Because, they have not made any self assessment regarding their specific contribution and there was no substantiation of their claims by reporting/reviewing Officers, thereby the procedure stipulated in 5(ii) of the guidelines was not followed. This point also has WPC. Nos. 15987 & 16966/10 14 not been directly answered by the 1st Respondent. It was claimed by the 1st Respondent that the 1st Respondent had the prerogative of interpreting and awarding of marks to the various items as

specified in the guidelines. This stand of the 1st Respondent is not supported by the guidelines which require her to select suitable Officers based on the guidelines. The prerogative of the State Government to propose suitable Officers for inclusion in the zone of consideration is to be exercised in accordance with the guidelines. When guidelines are issued by the State Government, the prerogative of the State Government is subject to the guidelines. If the State Government had the intention of exercising its prerogative unfettered by the guidelines, it should not have issued the guidelines in the first place.

41. It is stated by the 1st Respondent that the Respondents No. 5 and 7 are awarded 10 marks for specific contribution on the basis of the letters of appreciation by the Ministers under whom they are working. The letter of appreciation by the Finance Minister is dated 17.05.2009 and the one by the Minister for Home, Vigilance & Tourism is dated 23.03.2009. It would have been appropriate if the cut of date of 01.01.2009 was applied to the documents for the purpose of awarding marks. Indulgent superiors may be willing to oblige Officers chasing good service entries and letters of appreciation to score marks for shortlisting. Further, awarding of 10 marks for the letters of appreciation from the concerned Ministers as above is not in accordance with para 5(ii) of the guidelines as there was no self assessment substantiated by the reporting/reviewing Officers.

42. Awarding of 10 marks for "specific contribution" to Respondent No. 6 is based on 5 documents of which 2 are good service entries. 5 (iii) of the guidelines is specifically meant for good service entries. The "good service entries" to the credit of Respondent No. 6 do not qualify for awarding marks as they are not awarded through specific Government Order explicitly stating the reasons for awarding "good service entry". It does not seem proper to consider those good service entries which are unqualified under 5(iii), towards "specific contribution" under 5(ii) of the guidelines.

44. It is also not open to the Respondent to contend that the applicant ought to have moved the appropriate forum prior to the interview conducted by the Selection Committee. If he had any dispute as to the inclusion of the Respondents No. 5 to 7 in the zone of consideration, after denying the applicant necessary information under RTI Act thus effectively preventing him from moving the appropriate forum in time. In the facts and circumstances of the case before us, the law of estoppel does not come in the way of the applicant.

45. In the light of the above, we conclude that there is some merit in the contentions that the data for specific contribution submitted by the applicant in OA 184/10 was not considered for awarding marks and that guidelines were not strictly followed in awarding marks for specific contribution to R5 to R7. However, no malafide is established because the applicant in OA 184/10 has been given marks under good service entry and awards. As such without awarding any marks under specific contribution, the applicant is having WPC. Nos. 15987 & 16966/10 16 the top score of 84.2 marks. The applicant was not included in the

short list for zone of consideration only because he was under suspension. The applicant in OA 118/10 is given marks under specific contribution. The view of the applicants that if the marks are awarded to them, it is fair but if the marks are awarded to the party Respondents, it is malafide, is not sustainable. In our view, there is lack of transparency and want of due diligence in following the guidelines. The inherent defects of 5 (ii), (iii) & (iv) of the guidelines in not having a time frame, cut off date, repeated assessment of some attributes etc. get magnified when the guidelines are implemented with a cavalier attitude. Guidelines for short listing should not be more complex and elaborate than the regulations for selection. No servant is greater than his master. In the instant case, the guidelines are more complex and elaborate than the regulations. They suffer from lack of conceptual clarity and practical time frame leaving the field wide open for the subjectivity of a single person imbued with a sense of prerogative. Persons in authority should conduct themselves in such a way that their actions are above suspicion and beyond reproach. The records do not bear out adherence to the procedures in the guidelines in awarding marks under specific contribution and good service entry. There is no authenticated statement of marks awarded by the Chief Secretary. The correction of typographical error said to have been carried out is not visible in the mark sheet. Transparency is conspicuous by its absence in the application of the guidelines for evaluation of the Officers for the purpose of placing them in the zone of consideration. Had there been a committee for WPC. Nos. 15987 & 16966/10 17 shortlisting, the process of shortlisting would have been properly documented with greater objectivity and transparency minimising the chance for glaring typographical error. To be safe, the State Government should have followed the U.P.S.C; consider only those documents which are considered by the U.P.S.C. for awarding marks and award marks the way it does.

However, the Tribunal took the view that the guidelines of the Government of Kerala are not based on any law or regulation and they do not have the force of the Regulations and any infringement of the guidelines does not constitute an enforceable right. It was found that the Petitioner did not provide any proof of any illegality or malafides in the selection made by the Selection Committee. It was further found that only those eligible persons shortlisted out of the zone of consideration can legitimately question its shoddy implementation. But, they have already acquiesced and are estopped. It is found that the shortlisting of Officers from the zone of consideration has taken a hit or two from the guidelines which were inconsistent with the Regulations and are implemented with little transparency. It WPC. Nos. 15987 & 16966/10 18 is further found that paragraphs 5(2), (3) and (4) of the guidelines and the marks on the basis of the guidelines are immaterial for selection of suitable Officers on the basis of merit in accordance with the Regulations. It is found that merit and suitability are the basis for preparing the select list which is not challenged in the Original Applications.

6. It is pointed out by the learned senior counsel that the Tribunal having found

that the guidelines were flouted when marks were awarded to the party Respondents under Clause 5(ii), the Tribunal acted illegally in not interfering with the selection. Learned senior counsel further contended that, at any rate, the Selection Committee ought to have ranked the Petitioner in the first position. This is on the following reasoning:

Selection was made for the year 2008. Respondents 6 and 7 had participated in the selection procedure for the year 2008. They were awarded forty marks out of fifty marks set apart for under the head "Assessment of the Service Records". It is pointed out that when an Officer is outstanding, he is to be given WPC. Nos. 15987 & 16966/10 19 ten marks and if he is found to be very good, he is to be given eight marks. It is, therefore, contended that in respect of the selection for the year 2008, Respondents 6 and 7 were awarded forty marks out of fifty marks. This clearly shows that these Officers were found to be entitled to marks on the basis that they were found "very good", that is to say, they were given eight marks for the five years entitling them to get forty marks out of fifty marks. It is contended that for the selection in question, the Selection Committee has, however, awarded fifty marks to Respondents 6 and 7 out of fifty marks under the head "Assessment of Service Records". She would contend that after excluding one year, if there is any rational and legal consideration of the matter, Respondents 6 and 7 would be entitled to only fortytwo marks out of fifty under the head "Assessment of Service Records". This is for the reason that, taking note of the forty marks awarded for the previous year, namely 2008 and even granting ten marks which is due only when a person is found "outstanding" for the last year, 20 Respondents 6 and 7 would have got only fortytwo marks out of fifty marks (32+10), that is to say, for the previous four years, they would have got thirtytwo marks (8x4) and even with the granting of ten marks for the last year, they would have got only fortytwo marks out of fifty marks. As far as the Petitioner is concerned, she has been granted fifty marks out of fifty under the head "Assessment of Service Records". However, she was given only thirty marks for the interview, whereas, Respondents 6 and 7 were given thirtyfive and thirtythree marks respectively for the interview. Thus, according to her, the correct position would be that the Petitioner would get eighty marks (50+30) while the sixth Respondent would get 77 (42+35) and the seventh Respondent would get 75 marks (42 + 33).

7. Learned senior counsel would contend that Respondents 6 and 7 were given ten marks under Clause 5(ii) without there being any assessment as contemplated in the Clause. The same is the position in regard to the fifth Respondent also. No doubt, she submits that according to the records, the sixth Respondent WPC. Nos. 15987 & 16966/10 21 was actually awarded ten marks as a "good service entry" under Clause 5(iii). It is pointed out that when in the rejoinder affidavit of the sixth Respondent before the Tribunal, he contended that actually he had not claimed marks under Clause 5(iii), but he was entitled to get ten marks under Clause 5(ii) which deals with "specific contributions", Petitioner had filed a Reply Affidavit before the Tribunal contesting the right of the sixth

Respondent to get ten marks under Clause 5(ii). Learned senior counsel would reiterate that no reliance could be placed on the Certificate issued by the Ministers. She would point out that under the guideline issued by the Government of Kerala pursuant to the directions of this Court, in fact, there is a procedure prescribed in Clause 5(ii) to justify the award of ten marks and the marks could not be awarded except upon fulfillment of the requirements in the said Clause. It is her case that the conditions were not fulfilled in regard to the party Respondents.

8. Contentions in Shri T. Krishnan Unni, learned senior counsel appearing on behalf of the Petitioner would submit that the eighth Respondent who was working as the Administrator of Guruvayur Devaswom was not entitled to be considered. It is submitted that u/s 3 of the Guruvayoor Devaswom Act, matters are to be governed by a Committee, which is a Body Corporate. Section 4 of the Guruvayoor Devaswom Act provides for the composition of the Committee. It is submitted that it is the Committee which appoints the Administrator, no doubt, from a Panel submitted by the Government of Kerala. Section 14 of the Guruvayoor Devaswom Act provides for matters relating to the service conditions of the Administrator. Section 33 of the Guruvayoor Devaswom Act, no doubt, gives power to the Government to revise the decision of the Devaswom in certain conditions. He would refer us to the guidelines and emphasise that nomination is to be made by the concerned Secretaries/Principal Secretaries under whom the Officers are WPC. Nos. 15987 & 16966/10 23 working at present. It is submitted that the 7th Respondent was not working in any Government Department and he was appointed by the Committee constituted u/s 4 of the Guruvayoor Devaswom Act. He would point out that the 7th Respondent was not a Government servant and the Confidential Report was not reviewed by the competent authority as contemplated in the guideline in regard to the seventh Respondent. It is further contended that the seventh Respondent was initially appointed as a Block Development Officer under the Rural Development Department. Thereafter, he was promoted as Additional Development Commissioner and still further, as Deputy Development Commissioner. The nomination as contemplated under the Guidelines which we have extracted, if at all, could have been made only by the Secretary of the Rural Development Department, even accepting the case that by virtue of the deputation, the rights of the sixth Respondent are not lost and he could be considered for appointment to the Indian Administrative Service. Instead, he submits that the WPC. Nos. 15987 & 16966/10 24 nomination in respect of the sixth Respondent was made by the Additional Chief Secretary in Charge of Home and Vigilance. Therefore, the nomination was not, at any rate, by the proper person.

9. Contentions of the Respondents in W.P.(C).No.15987 of 2010:

Shri K.R.B. Kaimal, learned senior counsel appearing on behalf of the sixth Respondent, made the following submissions:

He would dispute the case of the Petitioner in the Writ Petition that the sixth

Respondent was illegally awarded marks under Clause 5(iii), namely for Good Service Entry. He would submit that the sixth Respondent has specifically stated in the Reply Affidavit filed before the Tribunal that he was not claiming any marks under Clause 5(iii) and he was entitled to ten marks on the basis of the special contributions made by him within the meaning of Clause 5(ii). He would point out that though the Petitioner has rebutted the said case in the Reply Affidavit filed by him in the Tribunal, there was no amendment to the reliefs sought. He would point out that when evaluation WPC. Nos. 15987 & 16966/10 25 was done under the Guidelines, it is only by a mistake that instead of awarding ten marks under Clause 5(ii), he was awarded ten marks for Good Service Entry. The mistake in not filling it up in the column could not affect his destiny, it is contended. He pointed out that the sixth Respondent has filed a Counter Affidavit in these proceedings wherein he has produced the documents which are, inter alia, the comments of the Reporting Officer in respect of his claim under Clause 5(ii). He would point out that the Statement contained in the pleading of the Government of Kerala before the Tribunal to the effect that the sixth Respondent was granted ten marks under Clause 5(ii) on the basis of certain Good Service Entries, on the basis of letter of recognition, Good Service Entry awarded by the District Collector Kozhikode, letter of appreciation issued by the District Collector Kozhikode and the Good Service Entry awarded by the District Collector Kannur, is erroneous. He would point out that a perusal of the Confidential Records would bear the sixth Respondent out in his contention that he had made special WPC. Nos. 15987 & 16966/10 26 contribution entitling him to ten marks. In regard to the contention of the Petitioner that in view of the fact that he was given forty marks out of fifty for the year 2008, on the basis of the assessment of the Confidential Records, selection is flawed, it is submitted that this cannot bind the Selection Committee constituted for the year 2009. According to him, the Selection Committee gave forty marks for all the candidates for the year 2008. On the other hand, he submits that a perusal of the records would show that for the year 2009, the Selection Committee has awarded fifty marks to all the candidates. He would submit that what is really crucial is the marks obtained for the interview. Admittedly, the sixth Respondent has obtained more marks in the interview, more than the Petitioner. He would submit that what is contemplated in the Regulation, is the assessment of the Confidential Records. He would submit that if the selection is not malafide or illegal, it should be upheld.

10. Shri O.V. Radhakrishnan, learned Counsel appearing on behalf of the fifth Respondent would make the following submissions:

He would point out that there was non-joinder of necessary parties. In this regard, he relied on the decision in Udit Narain Singh Malpaharia Vs. Additional Member, Board of Revenue, Bihar, . It is his case that the Central Administrative Tribunal not having been made a party in the Writ Petition in which a Writ of Certiorari is sought, must fail. He would point out that the Petitioner cannot have any complaint that his claim was not considered by the Selection Committee. There was a comparative evaluation. It may have been

different, if the Petitioner had not been considered. He would emphasise that in the matter of selection to the Indian Administrative Service, it is merit alone which counts. He would point out that the acceptance of the Petitioner's case would result in the anomalous position of the fifth Respondent who is ranked in the first position by the Selection Committee being ousted. He would submit that such a plea should not persuade this Court in the exercise of its extraordinary WPC. Nos. 15987 & 16966/10 28 jurisdiction to interfere. He would contend that we are dealing with a selection to the All India Service. He would contend that this is a subject which falls under Entry 70 of List I of VI Ith Schedule to the Constitution. Entry 70 of List I reads as follows:

70. Union Public Services; All-India Services; Union Public Service Commission.

He would contend that under Article 162 of the Constitution, the executive power of the State is co-extensive with its legislative power. He would therefore contend that it is not open to the Government to make the guidelines in question in the purported exercise of its executive power. He would further contend that the guidelines, at any rate, cannot operate so as to override the provisions of the Regulations. He would emphasise the command of Regulations 4 and 5. He would point out that the statutory Regulations contemplate a selection by the Selection Committee based on a consideration of the records and the interview, both components being given fifty marks each. He would point out that at this heart of a valid selection under the WPC. Nos. 15987 & 16966/10 29 Regulations lies the result of the assessment of the records of the Officers. In this regard, he pointed out the decision of the Apex Court in R.S. Dass Ors. Vs. Union of India (UOI) and Others, . He would, therefore, contend that the basis of selection itself has to be the consideration of the Service Records. He would further submit that the Guidelines being in the nature of administrative instructions, they are not enforceable. They do not confer any legal right on the Petitioner. He would point out that the Guidelines are inconsistent with the Statutory Regulations, in so far as after providing seventy marks under Clause 5(i) on the basis of evaluation of the performance, ten marks each is contemplated under Clauses 5(ii), 5(iii) and 5(iv) for special contributions, good service entry by the Government and awards respectively. It is impermissible, he submits, to have a different yardstick for the State to evaluate the candidate to ascertain whether he is outstanding. He would rely on the following decisions:

Senior Superintendent of Post Offices, Allahabad and Others Vs. Izhar Hussain, .

Paluru Ramkrishnaiah and Ors. v. Union of India and Anr. AIR 1990 SC 1660.

Shri L. Chandrakishore Singh Vs. State of Manipur and Others, .

Dr. Rajinder Singh Vs. The State of Punjab and Others, .

Union of India (UOI) through Govt. of Pondicherry and Another Vs. V. Ramakrishnan and Others, .

N.K. Pankajakshan Nair Vs. P.V. Jayaraj and Others, .

He would further submit that Regulation 4 does not empower the State Government to make any Regulation, Rule or issue any executive order. There is no source of power for the State Government to issue the Guidelines. Even though it may be true that the High Court issued certain directions, the High Court did not consider the question as to whether the State possessed the power to issue any such guideline. The Guidelines cannot change the basis of the selection. He further relied on the WPC. Nos. 15987 & 16966/10 31 following rulings:

Maharao Sahib Shri Bhim Singhji Ors. Vs. Union of India (UOI) and Others,).

J.R. Raghupathy and Others Vs. State of A.P. and Others,).

Narendra Kumar Maheshwari Vs. Union of India (UOI) and Others, .

State of Haryana v. Mahender Singh and Ors. (2007) 13 SCC 606).

Green Earth Asphalt and Power P. Ltd. Vs. State of Maharashtra Tr. P.S.O. and Others, .

He would submit that the selected candidates satisfy the requirements under the Statutory Regulations. He would further point out that the Petitioner has participated in the selection proceedings and having been placed in the fourth position by the Selection Committee of the UPSC and faced with elimination, it is not open to him to turn around and challenge the very inclusion of the fifth Respondent. He would point out that by Order dated 23.11.2009 the Government had forwarded the list of eligible candidates, ten in number. Petitioner was excluded. Petitioner was placed under suspension. Even though the Petitioner got an order, interim in nature, directing that his name also be considered, he did not choose it fit to challenge the inclusion of the fifth Respondent. He would contend that the Petitioner is therefore estopped from challenging the proposed selection of the fifth Respondent. He would also submit that there is constructive res judicata in so far as even though he filed W.P.(C). No. 33375 of 2009 on 19.11.2009, he has not challenged the inclusion of the fifth Respondent, though it was, going by the case set up in the present OA and in this Writ Petition, open to the Petitioner to have challenged it in W.P.(C). No. 33375 of 2009. Having chosen not to challenge the same, there is estoppel and constructive res judicata. He also relied on the judgment of the Apex Court in Mahesh Chandra Gupta Vs. Union of India (UOI) and Others, .

11. Shri N. Manoj Kumar, learned Special Government Pleader (Finance) made the following submissions:

The Regulations are statutory in nature. The order read as first paper in the Guidelines was found to be inappropriate. This Court issued certain directions and the Guidelines was issued. It is his case that the Guidelines are intra vires. It is his specific case that they were followed. He would further submit that even if there are minor variations, there being no manifest injustice, this Court need not interfere in the exercise of its extraordinary jurisdiction under Article 226. He

would submit that the persons who would have been excluded, accepting the Petitioner's arguments, have no complaint. The Petitioner was considered by the Selection Committee. He would further submit that the Petitioner was placed under suspension and it is only on the basis of the interim order passed by this Court that the Petitioner's name was also sent up and in turn considered by the Selection committee. He made an attempt to substantiate his contention that the party Respondents have made special contributions within the meaning of Clause 5(ii). He made available for our perusal, the Records relating to Respondents 5, 6 and 7. Besides, he also made available the Note File. In regard to the sixth Respondent, he would submit that in fact, even before the Tribunal, his Confidential Records were made available. However, he would point out that in view of the pleading of the Government of Kerala before the Tribunal which is as already noted, was based on five items which we have already referred to, apparently, the Tribunal has not considered the claim of the sixth Respondent for award of marks under Clause 5(ii). As regards the fifth Respondent is concerned, he would submit that he is an outstanding Officer and he had made very important contributions in the matter of formulation of the budget. In particular, he would point out that for the past many years, there is no treasury ban for even a single day and this was very largely due to the contributions of the fifth Respondent. He would point out that the Guidelines were framed in the year 2009. Clause 5(ii), no doubt, provides for the procedure for awarding ten marks for special contribution. He would submit that we would have to consider the contributions made by the WPC. Nos. 15987 & 16966/10 35 Officers on the basis of the Records and it would show that Respondents 5 to 7 have made special contributions. He would also submit that the Officers were asked to give their bio-data at the time when their names were considered by the State Government and there were material in the Confidential Records also and on an evaluation of the materials in the Confidential Records and the Bio-data, the Government was justified in awarding ten marks under Clause 5(ii). He relied on the decision of the Apex Court in *M.V. Thimmaiah and Others Vs. Union Public Service Commission and Others*, . Therein, the Apex Court was dealing with the case of selection to the IAS from Non State Civil Service Officers. The Apex Court has held, inter alia, as follows:

Normally, the recommendations of the Selection Committee cannot be challenged except on the ground of mala fides or serious violation of the statutory rules. The courts cannot sit as an Appellate Authority to examine recommendations of the Selection Committee like court of appeal. This discretion has been given to the Selection 36 Committee only and courts rarely sit as a court of appeal to examine selection of candidates, nor is it the business of court to examine each candidate and record its opinion.

The Court held also that the selection by Expert Bodies unless actuated with malice or there is apparent error, should not be interfered with. He would point out that the Petitioner was considered and he cannot complain of the inclusion of Respondents 5 to 7. He would further contend that the interim order passed by

this Court on the basis of which the Petitioner was also considered, was subject to the further orders in the Writ Petition. He would point out that the Petitioner not having got the Writ Petition disposed of confirming the interim order, the very title of the Petitioner is suspect. He would contend that the Petitioner was placed under suspension for grave charges. It may be true that the Appellate Authority decided to revoke the suspension. But, he would remind us that the revocation was without prejudice to the right of the Government to proceed with the disciplinary action. He would point out the letter of the WPC. Nos. 15987 & 16966/10 37 Chief Secretary produced by the Petitioner himself wherein it is, inter alia, stated as follows:

An Officer who is facing departmental enquiry and who is having adverse remarks or of doubtful integrity, cannot unequivocally said to be of outstanding merit and ability.

Therefore, he would submit that the Petitioner could not be said to be a person who could have any complaint, particularly when his case was considered by the Selection Committee and they ranked him at the fourth position. He would further submit that if the Petitioner's case is accepted, it may result in the whole process having to be repeated. He would point out that in fact disciplinary action was commenced against the Petitioner by issuance of a Charge Memo on 19.1.2010. He would also submit that there is no justice in the case of the Petitioner.

12. Learned Counsel for the seventh Respondent would also submit that there is no basis to contend that the seventh Respondent is not entitled to the ten marks awarded under Clause 5(ii). It is contended that she had an exemplary record in service WPC. Nos. 15987 & 16966/10 38 and that she was in fact considered for selection five times earlier and, therefore, there is no basis for the plea of the Petitioner.

13. Smt. Sumathy Dandapani, learned senior counsel for the Petitioner in reply to the aforesaid contentions, would make the following submissions:

There is no merit in contending that the Tribunal ought to have been made a party. In this regard, she would rely on the decision of the Apex Court in Savitri Devi Vs. District Judge, Gorakhpur and Others, . It is further brought to our notice that this Court, on the administrative side, took the view that the Tribunal need not be impleaded. As far as the plea of estoppel and constructive res judicata, it is contended that the Petitioner had applied for various details under the Right to Information Act, including the list of persons who were recommended by the State Government for consideration by the Selection Committee. She had to carry the matter further in Appeal before the Chief Information Commissioner, in fact, WPC. Nos. 15987 & 16966/10 39 twice. Petitioner came by possession of the details including the list of persons only on 19.2.2010. Within a short period ie. on 7.3.2010, the Petitioner filed the OA in question. It is further pointed out that in the meantime, pursuant to the interim

order, the Petitioner was also interviewed on 31.12.2009. It is contended that there can be neither estoppel, nor constructive res judicata, as the Petitioner was not aware who were the ten persons and their details and the number of persons whose names were sent up by the State. She would also rely on Certificates which have been issued by the State Government. They include Certificates, all dated 22.12.2009 which certified, inter alia, that there are no disciplinary proceedings pending against the Petitioner, no criminal proceedings pending against the Petitioner and that the Petitioner fulfills the requirements of Regulation 4 of the Regulations. She would submit that in the teeth of this, it is far-fetched for the Respondents to contend that despite the interim order and taking note of the fact of revocation of the suspension, the Petitioner was allowed to 40 participate in the interview, merely because there is no order in the Writ Petition in terms of the request made by the Petitioner, the title of the Petitioner is lost (In regard to Writ Petition No. 33375/09 in which the interim order was passed, in answer to the contentions of the Respondents, it is contended that the Writ Petitioner had brought the developments to the notice of the learned Single Judge leading to her being considered for selection and it was prayed that the Writ Petition may be closed by making the interim order final.) She would submit that in the light of the facts present in the case, no further adjudication was necessary as such. It is further pointed out in the main prayer and the interim prayer in the aforesaid Writ Petition are one and the same.

14. In regard to the contention based on the doctrine of ultra vires in regard to the Guidelines being in the teeth of the exclusive power of Parliament to enact legislation in respect of All India Service, she would contend that the fifth Respondent is estopped from raising such a contention. It is contended that WPC. Nos. 15987 & 16966/10 41 there is no challenge to the guidelines. She would further contend that if the plea of the fifth Respondent is to be accepted, namely that the State Government must adopt only the criteria embedded in the Statutory Regulation, then the State Government was also obliged to hold an interview for the purpose of sending up the names. In so far as there has been no such interview, she would submit that the selection must fail on that count. She would also bring to our notice the following decisions in regard to the plea of the fifth Respondent based on Article 162 of the Constitution of India:

Satya Narain Shukla Vs. Union of India (UOI) and Others, .

B. Viswanathiah and Company and Others Vs. State of Karnataka and Others, .

15. There is implied power, she would contend, to frame the Guidelines, besides the fact that there was a direction by this Court. She would contend that as far as the contention raised that the Petitioner ought not to have been given ten marks under Clause 5(iii) for the Good Service Entry made for the years 1942 and 2000 being beyond the period of five years, no such contention was advanced by the Respondents before the Tribunal. She would further contend that even in the Writ Petition, no such case is set up by the State Government. She would further contend that the embargo that the evaluation of the

Confidential Records is to be for five years preceding the selection, would not stand in the way of awarding of ten marks towards Good Service Entries under Clause 5(iii), even if they were earned in the years 1993 and 2000. She would further submit that the Petitioner also had a case before the Tribunal that she was entitled to get ten marks under Clause 5(iii) for special contribution and that was not considered by the Tribunal for the reason that even otherwise the Petitioner was awarded highest marks by the State Government, namely 84.3. She would further contend that the sixth Respondent had not produced the documents which are now sought to be relied on to justify awarding of marks under Clause 5(ii) before the Tribunal and in the Reply Affidavit filed before the Tribunal by the first WPC. Nos. 15987 & 16966/10 43 Respondent, a different justification was given for awarding of marks under Clause 5(ii) to the sixth Respondent. Even in the Counter Affidavit filed in the High Court, it is stated that there is no whisper about the change which is sought to be brought about as the basis for justifying awarding of marks under Clause 5(ii). She would also refer to paragraph 42 of the Order which reads as follows:

42. Awarding of 10 marks for "specific contribution" to Respondent No. 6 is based on 5 documents of which 2 are good service entries. 5 (iii) of the guidelines is specifically meant for good service entries. The "good service entries" to the credit of Respondent No. 6 do not qualify for awarding marks as they are not awarded through specific Government Order explicitly stating the reasons for awarding "good service entry". It does not seem proper to consider those good service entries which are unqualified under 5(ii) towards "specific contribution" under 5(ii) of the guidelines.

She would pose a question that if the documents had indeed been produced as canvassed for by the learned Special Government Pleader, how the observations could be justified ? Even if the documents were genuine, she would contend, and WPC. Nos. 15987 & 16966/10 44 even assuming that the self-assessment was made by the sixth Respondent in separate sheets, she poses a question as to how there could be separate sheets for remarks by the Reporting Officer/ Reviewing Officer. This is contrary to the format prescribed for Confidential Records, it is contended. As far as the Good Service Entry awarded to the Petitioner is concerned, it is pointed out that irrespective of the fact that it is beyond five years, it is to be considered and there is no case for the Respondents in the Tribunal that it should not be considered.

16. Shri O.V. Radhakrishnan, learned senior counsel would further reiterate that the Tribunal ought to be made a party. He would emphasise that the State Government would have and should have proceeded on the basis of the Service Record to consider whether an Officer satisfies the requirement of Regulation 4 of the Regulations. He would contend that the State Government could not hold an interview as when the State Government is sending up the names for consideration for selection by the Selection Committee, it is not making a WPC. Nos. 15987 & 16966/10 45 selection. He would contend that it may have been

different if the Central Government issued the Guidelines. In answer to a query from the Court as to whether in view of Entry 41 of List II of the VI Ith Schedule which endows the State Legislature with legislative power in respect of State Public Service, could it not be said that the Guidelines could not be faulted on the basis that Article 162 is breached, he would submit that the matter is governed by Entry 70 of List I. No doubt, he would submit that Clauses 5(ii), 5(iii) and 5(iv) are not entirely foreign to the concept of merit. He also would contend that the Guidelines need not be challenged as they are still born, being void and they are inconsistent with the Regulations. He would submit that the Regulations provide a complete code. He relied on the decision in *Union Public Service Commission v. L.P. Tiwari and Ors.* (2006) 12 SCC 317) to contend that the Good Service Entries awarded to the Petitioner should not have been considered and cannot be considered, even if the Guidelines were to be found to be enforceable. He would draw attention to the prayer in the WPC. Nos. 15987 & 16966/10 46 Writ Petition and contend that the prayer is only to quash the order passed by the Tribunal. He alerted us to the decision of the Apex Court in *Kerala Solvent Extractions Ltd. v. Unnikrishnan* (1994 (1) KLT 651) in this regard. He distinguished the decision in *Satya Narain Shukla Vs. Union of India (UOI) and Others*, on the ground that therein, the executive power was exercised by the Central Government. He would contend that the Guidelines which are the sheet-anchor of the Petitioner's case are to be used only for guidance and they are incapable of conferring enforceable rights on the Officer. He would point out that the list of ten candidates as contained in Annexure A5 in the OA and the averments in the OA would mean that the Petitioner could and should have challenged the list in W.P.(C). No. 33375/09 on the ground of alleged inclusion of ineligible candidates.

17. Shri K.R.B. Kaimal, learned senior counsel for the sixth Respondent would submit that the Guidelines could be supported with reference to Entry 41 of List II. He would say WPC. Nos. 15987 & 16966/10 47 that anyone who has derived benefit under the same, cannot, without challenging it, describe it as void and seek to avoid its consequences. Smt. Sumathy Dandapani, learned senior counsel would point out that though an order of stay was passed by the Central Administrative Tribunal, it was disregarded and further proceedings were taken in the matter.

18. Learned Special Government Pleader would submit that paragraph 46 of the order of the Tribunal would show that the Tribunal had noticed that Good Service Entry was given in the distant past to the Petitioner.

19. Contentions in W.P.(C).No.16966/2010:

Shri K.R.B. Kaimal, learned senior counsel for the 8th Respondent would contend as follows;

Petitioner and the 8th Respondent were considered for selection in the year 2008. Petitioner did not challenge the inclusion of the 8th Respondent. Petitioner

is estopped from challenging it for the year 2009. The 8th Respondent who was appointed in the Rural Development Department, was promoted WPC. Nos. 15987 & 16966/10 48 as Additional Development Commissioner in the year 1996 and further promoted as Deputy Development Commissioner in the year 2006. He would submit that the Government has issued orders rendering the Assistant Development Commissioner as an equivalent post to the post of Deputy Collector. He would submit that it is being issued every year. He would submit that the 8th Respondent was on deputation on foreign service, as defined in Part I of KSR. The fact that a Committee which was constituted u/s 3 of the Guruvayoor Devaswom Act, had appointed the 8th Respondent would not mean that the 8th Respondent would be deprived of his legal right to be considered for appointment. He relied on Rule 143 of the KSR. There is a Department, called "Devaswom Department". The Reporting Officer of the 8th Respondent was the Government Secretary who is also the Commissioner of the Guruvayur Devaswom. The Additional Chief Secretary, Home and Vigilance, is the Reviewing Authority and it is these Authorities who have made the comments in the Confidential Records of the 8th Respondent. Therefore, there is no merit in the contention of the Petitioner that the 8th Respondent was not a Government servant or that he cannot be considered for appointment to the Indian Administrative Service. He points out that service as Additional and Deputy Development Commissioner is also service in connection with the affairs of the State under the Regulation.

He would further contend that the Guideline clearly provides that the nomination has to be made by the concerned Secretary under whom the Officer is currently working. Thus, though the 8th Respondent has a lien in a post which is borne in the cadre of the Rural Development Department, in view of the fact that the Petitioner was working as Administrator of the Guruvayur Devaswom, he must be treated as working under the Department dealing with Devaswom and therein the Government Secretary is also the Commissioner of the Guruvayur Devaswom, was his Reporting Officer and the Additional Chief Secretary who was in charge of the Devaswom was also correctly understood as the Reviewing Officer. Therefore, it is contended that the WPC. Nos. 15987 & 16966/10 50 Additional Chief Secretary is indeed the person under whom it could be said that the 8th Respondent was working when the nomination was made and, therefore, the nomination was correctly made. He would also point out that the Guruvayur Devaswom Act contains provisions which enable the Government to exercise deep control over the Devaswom. He would submit that he has made special contribution within the meaning of Regulation 5(ii) and, therefore, there is no merit in the case of the Petitioner.

20. The following questions arise for our consideration:

(1) Whether a Writ Petition seeking a certiorari is maintainable by reason of the non-joinder of the Central Administrative Tribunal ?

(2) What is the effect of the prayer sought in the Writ Petition ?

(3) Whether the Guidelines are void, in view of Entry 70 of List I read with Article 162 of the Constitution of WPC. Nos. 15987 & 16966/10 51 India ?

(4) Whether the Guidelines can be invoked by the Petitioners on the basis that they confer enforceable rights or/and in order that the principle of fairness in State action is achieved ?

(5) Whether the Guidelines are inconsistent with and ultra vires the Regulations ?

(6) Whether the Guidelines confer a legal right to the extent of enabling a challenge to inclusion of candidates and even when the Petitioner is also considered ?

(7) Whether on the facts is it open to the Petitioner in W.P.(C). No. 15987/2010 to challenge the selection invoking the breach of the Guidelines, in view of the plea of estoppel and constructive res judicata raised by the party Respondent and also having regard to the mandate of Regulation 4 that not more than five candidates as against one vacancy are to be nominated ?

(8) What is the effect of the interim order in W.P.(C). No. 33375/2009 and the manner in which the Writ Petition has been disposed of finally on the claim of the Petitioner ?

(9) Whether there has, in fact, been an infraction of the Guidelines in the matter of awarding marks to Respondents 5 to 7 ?

(10) Whether awarding of marks under Clause 5(iii) of the Guidelines to the Petitioner is open to challenge ?

(11) Whether in the facts, the Court should exercise its extraordinary and discretionary jurisdiction in favour of the Petitioner ?

21. W.P.(C). No. 16966 of 2010:

(1) Whether the Guidelines are enforceable and whether the inclusion of the 8th Respondent is in breach of Clause 5(ii) ?

(2) Whether the nomination of the 8th Respondent is legal and having regard to the fact that he was working as WPC. Nos. 15987 & 16966/10 53 the Administrator of the Guruvayoor Devaswom ?

(3) Whether the nomination of the 8th Respondent was done by the competent Authority ?

22. Findings on the questions in W.P.(C). No. 15987/2010:

(1) Whether the non-joinder of the Tribunal is fatal ?

In view of the subsequent impleading of the Tribunal, this point does not survive.

(2) What is the effect of the prayer in the Writ Petition being to quash the order of the Tribunal ?

In view of the amendment allowed, this point also does not survive.

(3) Whether the Guidelines are void in view of Entry 70 of List I read with Article 162 of the Constitution ?

Entry 70 of List I deals with subjects which are within the exclusive legislative province of the Union Parliament. It, inter alia, provides the Union Parliament with legislative power to legislate in respect of the All India Service. It is in exercise of the said power that the Union Parliament has enacted the All India Services Act, 1951. Statutory Rules have been framed in respect of various matters under the said Act.

23. The Indian Administrative Service (Recruitment) Rules, 1954 provide, inter alia, for the method of recruitment to the Service. One of the methods as is evident from Rule 4(c) is by selection in special cases from amongst persons who hold in a substantive capacity, gazetted post in connection with the affairs of a State and who are not members of a State Civil Service. Rule 8(1) of the said Rules provides for recruitment by promotion to the Indian Administrative Service from among the State Civil Service. Sub-rule (2) of Rule 8 reads as follows:

8. Recruitment by promotion or selection for appointment to State and Joint Cadre.-

(2) The Central Government may, in special circumstances and on the recommendations of the State Government concerned and in consultation with the Commission and in accordance with such regulations as the Central Government may, after WPC. Nos. 15987 & 16966/10 55 consultation with the State Governments and the Commission, from time to time, make recruit to the Service any person of outstanding ability and merit serving in connection with the affairs of the State who is not a member of the State Civil Service of that State but who holds a gazetted post in a substantive capacity.

24. The Regulations in question are the Regulations made in the exercise of the power u/s 3 of the All India Services Act, 1951 and in pursuance of Sub-rule (2) of Rule 8 of the Recruitment Rules which we have extracted. Going by the stand of the first Respondent, recruitment by selection consists of three stages. In the first stage, nominations are called for from various Government Secretaries, of candidates who fulfill the criteria mentioned in Regulation 4, and after evaluation, the State Government sends up the proposal of such candidates for consideration of the Selection Committee. As per