Central Administrative Tribunal
Principal Bench, New Delhi

O.A. No. 213/2026

Reserved on: 20.01.2026
Pronounced on: 21.01.2026

Hon'ble Mr. Justice Ranjit More, Chairman
Hon'ble Mr. Rajinder Kashyap, Member (A)

Dr. Rajesh Kumar
Principal Secretary,
Department of Mass Education Extension & Library Services,
9th Floor, Bikash Bhawan, Salt Lake,
Kolkata – 700091

...Applicant

(By Advocate: Mr. Sanjoy Ghose, Sr. Adv. assisted by Mr. Nipun Arora and Mr. Rohan Mandal)

Versus

1. Union Public Service Commission (UPSC)
Through its Secretary,
Dholpur House,
Shahjahan Road, New Delhi – 110069

2. Union of India
Through Secretary, Ministry of Home Affairs,
North Block, New Delhi – 110001

3. State of West Bengal
Through Chief Secretary, Nabanna,
Howrah – 711102

...Respondents

(By Advocate: Mr. R. V. Sinha with Mr. K. K. Sharma, Mr. Aman Sharma, Mr. Suryansh Singh, Mr. A. S. Singh, Ms. Shriya Sharma and Ms. Jyoti Garg for R1, Mr. Jalaj Agarwal for R2, Mr. A. K. Behera, Sr. Adv. assisted by Ms. Madhumita Bhattacharjee, Mr. Debanjan Mandal, Mr. Kartikey Bhatt and Mr. Tanish Arora for R3)

O R D E R (ORAL)

Per: Justice Ranjit More, Chairman

The applicant is an IPS Officer of the 1990 batch of the West Bengal cadre and is presently serving as Principal Secretary, Department of Mass Education Extension and Library Sciences, Government of West Bengal. The applicant has approached this Tribunal by way of the present O.A. seeking directions to respondent No. 1 to send a panel of three senior-most IPS officers, including the applicant, for appointment to the post of Director General of Police (Head of Police Force) [hereinafter referred to as "DGP (HoPF)", West Bengal] as on the vacancy date of 27.12.2023, strictly in compliance with the judgment of the Hon'ble Supreme Court in ***Prakash Singh & Ors vs Union of India & Ors*** WP No. 310/1996 and the guidelines issued by respondent No. 1 dated 26.09.2023.

2. It is the case of the applicant that the vacancy to the post of DGP (HoPF), West Bengal arose on 27.12.2023. Respondent No. 3, i.e. the State of West Bengal, however, forwarded the proposal for empanelment only on 16.07.2025, comprising the names of ten IPS officers, including the applicant. It is further the case of the applicant that despite receipt of the said proposal, respondent No.

1 did not prepare the panel in accordance with the governing guidelines. The applicant submits that he is due to superannuate on 31.01.2026 and that any further delay in preparation of the panel would cause serious and irreversible prejudice to his right to be considered for appointment to the said post. In these circumstances, he has approached this Tribunal seeking the reliefs stated hereinabove.

3. The O.A. was placed for admission on 26.11.2025. After hearing learned counsel for the applicant, notice was issued to the respondents. Notices on behalf of respondent Nos. 1 and 2 were accepted by Mr. K. K. Sharma and Mr. Jalaj Agarwal, learned counsel, respectively. It was made clear that the applicant's prayer for interim relief would be considered on the next date.

4. On 16.12.2025, Mr. Sharma, learned counsel for respondent No. 1, submitted that a meeting of the Empanelment Committee was held on 29.10.2025. However, in view of certain differences of opinion, respondent No. 1 sought the opinion of the learned Attorney General for India. He submitted that an appropriate decision would be taken immediately after receipt of the said opinion. We thereafter observed that the respondents must

obtain the opinion of the learned Attorney General expeditiously and proceed with the empanelment process without delay, in accordance with law. As such, at the request of respondent No. 1, the hearing of the O.A. was deferred.

5. When the O.A. was taken up for further hearing on 08.01.2026, learned counsel for respondent No. 1 placed on record a communication dated 31.12.2025 issued by the UPSC to the Chief Secretary, Government of West Bengal. By the said communication, the proposal of the State Government for preparation of the panel for DGP (HoPF) was returned, stating that in case of delay in sending proposals, the State should seek clarification/leave from the Hon'ble Supreme Court in terms of the judgment in ***Prakash Singh*** (supra). In light of the said communication, learned senior counsel for the applicant sought leave to amend the O.A. so as to challenge the communication dated 31.12.2025. Oral leave to amend the OA was granted as the amendment was necessitated by events subsequent to the filing of the O.A. The applicant accordingly amended the O.A. and challenged the communication dated 31.12.2025.

6. By way of amendment, the applicant sought interim directions to stay the operation and effect of the communication dated 31.12.2025 and further sought a direction to respondent No. 1 to convene a meeting of the Empanelment Committee and consider the names of officers contained in the letter dated 16.07.2025 for appointment to the post of DGP (HoPF), West Bengal, in a time-bound manner, without taking into account the delay on the part of the State Government, and to send the panel to the State Government not later than fifteen days prior to the applicant's date of superannuation, i.e. 31.01.2026.

7. In the above circumstances, we have heard Mr. Sanjoy Ghosh, learned senior counsel for the applicant; Mr. R. V. Sinha along with Mr. K. K. Sharma, learned counsel for respondent No. 1, and Mr. A. K. Behera, learned senior counsel for respondent No. 3, at length on the prayer for interim relief. So far as respondent No. 2 is concerned, it has no role in the matter, and Mr. Jalaj Agarwal, learned counsel, has already filed a short reply to this effect.

8. Mr. Ghosh, learned senior counsel for the applicant, submitted that the vacancy to the post of DGP (HoPF), West Bengal arose on 27.12.2023. Though respondent No. 3 was

required, in terms of the judgment in ***Prakash Singh*** (supra), to forward the proposal for empanelment at least three months prior to the vacancy, the proposal was forwarded only on 16.07.2025, containing the names of ten officers. He submitted that respondent No. 1 failed to take any action for several months and that the applicant, being due to superannuate on 31.01.2026, was constrained to approach this Tribunal. He further submitted that the right of the applicant to be considered for appointment to the post of DGP (HoPF) cannot be defeated on account of administrative delay. He contended that respondent No. 1 could have proceeded to send the panel of three senior-most officers to the State Government instead of returning the proposal on the ground of delay.

9. Mr. Sinha, learned counsel for respondent No. 1, opposed the interim relief both on preliminary grounds and on merits. He raised the following preliminary objections:

(i) Once the O.A. is amended, the original O.A. ceases to exist and in the absence of verification of the amended O.A., the same is not maintainable.

(ii) The scope of judicial review of the decision of the Selection Committee is limited,

(iii) Non-impleadment of necessary parties,

(iv) Interim relief identical to the final relief cannot be granted,

(v) Hardship and sympathy cannot be grounds for relief,

(vi) Newspaper reports do not constitute evidence,

(vii) Internal communications do not give rise to a cause of action

(viii) that the impugned communication dated 31.12.2025 is based on the opinion of the learned Attorney General and requires no interference.

10. In support of his submissions, Mr. Sinha relied upon the decisions in ***Manohar Lal (Dead) by LRs Vs Ugrasen (Dead) by LRs & Ors***, reported as (2010) 11 SCC 557, ***Ekta Shakti Foundation Vs Govt of NCT of Delhi***, reported as (2006) 10 SCC 337, ***K.H. Siraj Vs High Court of Kerala & Ors***, reported as (2006) 6 SCC 395, ***Ashok Kumar Bajpai Vs Dr. (Smt.) Ranjana Bajpai***, reported as 2003 SCC OnLine All 1296, ***LIC of India Vs. R. Dhandapani***, reported as (2006) 13 SCC 613, ***Ghanshaym Upadhyay Vs. State of Uttar Pradesh & Ors.*** reported as (2020) 16 SCC 811, ***Nareshbhai Bhagubhai & Ors. vs. Union of India***, reported as (2019) 15 SCC 1

11. Mr. Behera, learned senior counsel for respondent No. 3, submitted that the judgment in ***Prakash Singh*** (supra) was delivered in 2006 and clarification was issued on 03.07.2018. He submitted that in earlier cases, the UPSC had made recommendations despite delay on the part of State Governments and that the plea of contempt raised by respondent No. 1 is an afterthought. He relied upon the decision of the Hon'ble Supreme Court in ***P. T. Rajan v. T. P. M. Sahir and Others***, (2003) 8 SCC 498, especially the observations recorded in paragraph 48 therein. He further submitted that during the pendency of empanelment proceedings initiated on 16.07.2025, the rules of the game could not be changed, relying upon ***Tej Prakash Pathak v. Rajasthan High Court***, (2025) 2 SCC 1, especially the observations recorded in paragraph 65 therein.

12. We have considered the rival submissions. Before examining the merits, we deal with the preliminary objections. The objection regarding absence of verification in the amended O.A. cannot be accepted. Section 22 of the Administrative Tribunals Act, 1985 provides that the Tribunal is not bound by the procedure laid down in the CPC and shall be guided by principles of natural

justice. In the present case, the original O.A. was duly verified, and the amendment was permitted on account of subsequent events. As such, we do not find any substance in such objection.

13. The contention regarding limited scope of judicial review is well settled, however, judicial review extends to examining whether the decision-making process violates statutory provisions or fundamental rights. The right to be considered for promotion is a fundamental right, and in the present case, prolonged inaction by respondent No. 1 cannot be ignored.

13.1 Mr. Sinha also submitted that non-impleadment of necessary parties should result in dismissal of the O.A. There is no dispute with regard to the said legal proposition. However, we find that all the necessary and proper parties have been impleaded in the present O.A., and therefore the objection raised by Mr. Sinha is without merit.

13.2 This brings us to the objection raised by Mr. Sinha that interim relief and final relief cannot be identical. It is true that, ordinarily, courts or tribunals, while dealing with a matter at the interim stage, should not grant a relief which virtually amounts to granting the final relief. However, in exceptional circumstances,

where the court or tribunal is satisfied that the petitioner is likely to ultimately succeed and the facts of the case warrant such relief, interim relief of such nature may be granted. In such cases, the court must record reasons indicating the special circumstances justifying the grant of such relief. In this regard, reference may be made to the decision of the Hon'ble Supreme Court in **Ashok Kumar Bajpayee** (supra), particularly the observations made in paragraph 16 thereof.

13.3 As regards the objection raised by Mr. Sinha that the communications dated 31.12.2025 and 08.01.2026 are merely internal communications, we find no merit in the said submission. On the contrary, the said communications constitute decisions of the respondents, which have caused prejudice to the applicant, and he is well within his rights to challenge the same.

13.4 This now takes us to the submission of Mr. Sinha that hardship and sympathy cannot be grounds for grant of relief. This submission cannot be accepted, as the applicant is asserting his fundamental right to be considered for empanelment and is not seeking relief on the basis of hardship or sympathy.

13.5 As regards the contention that newspaper reports do not constitute evidence, it is noted that the applicant has already deleted prayer clause (b), which was based on newspaper reports, in pursuance of the directions of this Tribunal. The present challenge in the O.A. is confined to the communication dated 31.12.2025 and the policy dated 08.01.2026.

14 Now, turning to the merits of interim relief, in **Prakash Singh** (supra), the Hon'ble Supreme Court prescribed a minimum tenure for the DGP. Direction No. 2 is relevant, which reads as follows:

> "(2) The Director General of Police of the State shall be selected by the State Government from amongst the three senior-most officers of the Department who have been empanelled for promotion to that rank by the Union Public Service Commission on the basis of their length of service, very good record and range of experience for heading the police force. And, once he has been selected for the job, he should have a minimum tenure of at least two years irrespective of his date of superannuation. The DGP may, however, be relieved of his responsibilities by the State Government acting in consultation with the State Security Commission consequent upon any action taken against him under the All India Services (Discipline and Appeal) Rules or following his conviction in a court of law in a criminal offence or in a case of corruption, or if he is otherwise incapacitated from discharging his duties."

15. The Hon'ble Supreme Court, by clarification dated 03.07.2018, further directed as under:

> "(a) All the States shall send their proposals in anticipation of the vacancies to the Union Public Service Commission, well in time at least three months prior to the date of retirement of the incumbent on the post of Director General of Police;
> (b) The Union Public Service Commission shall prepare the panel as per the directions of this Court in the judgment in Prakash Singh's case(supra) and intimate to the States;"
> (c) ...
> (d) ...

(e) ...
(f) ...
(g) ...

16. In the present case, though respondent No. 3 delayed forwarding the proposal, when the proposal was sent on 16.07.2025, the applicant had more than six months of service left. Respondent No. 1, however, convened the meeting only on 30.10.2025 and thereafter returned the proposal. We find no merit in the contention that proceeding with empanelment by respondent no. 1 (UPSC) would amount to contempt. Any delay attributable to respondent No. 3 cannot prejudice the applicant.

17. In ***P. T. Rajan*** (supra), the Hon'ble Supreme Court observed as under:

> "48. Furthermore, even if the statute specifies a time for publication of the electoral roll, the same by itself could not have been held to be mandatory. Such a provision would be directory in nature. It is a well-settled principle of law that where a statutory functionary is asked to perform a statutory duty within the time prescribed therefor, the same would be directory and not mandatory. (See Shiveshwar Prasad Sinha v. District Magistrate of Monghyr [AIR 1966 Pat 144 : ILR 45 Pat 436 (FB)] , Nomita Chowdhury v. State of W.B. [(1999) 2 Cal LJ 21] and Garbari Union Coop. Agricultural Credit Society Ltd. v. Swapan Kumar Jana [(1997) 1 CHN 189] .)"

18. In ***Tej Prakash Pathak*** (supra), the reference answered by the Apex Court in paragraph 65 reads as follows:

> "65. We, therefore, answer the reference in the following terms:
>
> 65.1. Recruitment process commences from the issuance of the advertisement calling for applications and ends with filling up of vacancies;

> 65.2. Eligibility criteria for being placed in the select list, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness;
>
> 65.3. ....
>
> 65.4. Recruiting bodies, subject to the extant Rules, may devise appropriate procedure for bringing the recruitment process to its logical end provided the procedure so adopted is transparent, non-discriminatory/non-arbitrary and has a rational nexus to the object sought to be achieved;
>
> 65.5. Extant Rules having statutory force are binding on the recruiting body both in terms of procedure and eligibility. However, where the rules are non-existent, or silent, administrative instructions may fill in the gaps;
>
> 65.6. ..."

18.1 Thus, it is evident that during the pendency of the empanelment proceedings, which were initiated as far back as 16.07.2025, the rules of procedure could not have been changed by respondent No. 1. In any event, the policy introduced by way of the communication dated 08.01.2026 cannot be applied retrospectively to the present case.

19. Considering the totality of circumstances, we grant the following interim relief:

(i) Respondent No. 3, State of West Bengal, is directed to resubmit the proposal for empanelment to the post of DGP (HoPF)

to respondent No. 1 on or before 23.01.2026, by email and through special messenger.

(ii) Respondent No. 1 is directed to convene a meeting of the Empanelment Committee on or before 28.01.2026 and prepare the panel in accordance with the applicable guidelines and forward the same to respondent No. 3 on or before 29.01.2026.

(iii) Respondent No. 3 shall, thereafter, take an appropriate decision regarding appointment from the panel so received, as expeditiously as possible.

20. Stand over to 11.03.2026.

(Rajinder Kashyap)
Member (A)

(Justice Ranjit More)
Chairman

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