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Central Administrative Tribunal  
Principal Bench

O.A. 708/2002

New Delhi this the 5th day of May, 2004

Hon'ble Shri Justice V.S. Aggarwal, Chairman.  
Hon'ble Shri R.K. Upadhyaya, Member (A).~

R.L. Meena, IPS,  
Superintendent of Police (Anti-Corruption),  
Andaman and Nicobar Admn.,  
Port Blair,  
The Union Territory of Andaman  
and Nicobar Islands.

...Applicant.

(By Advocates Shri Devesh Singh with Shri  
Vikrant Yadav)

Versus

1. Union of India  
through Secretary,  
Ministry of Home Affairs,  
North Block,  
New Delhi.
2. Govt. of NCT of Delhi  
through Chief Secretary,  
The Secretariat of Govt. of  
NCT of Delhi,  
I.P. Stadium,  
New Delhi.
3. Department of Personnel and Training,  
through Secretary,  
Ministry of Home Affairs,  
North Block,  
New Delhi.
4. Union Public Service Commission,  
through Chairman,  
Shahjahan Road,  
New Delhi.
5. Ms. Anita Roy (RR/90),  
DCP Security,  
Delhi Police Security Headquarters,  
Vinay Marg, Chanakyapuri,  
New Delhi.
6. Tajendra Singh Luthra (RR/90),  
DCP/South West District,  
Delhi Police, PS Ashok Vihar,  
Delhi.
7. Sanjay Singh (RR/90),  
DCP/North West Distt.,  
Delhi Police,  
PS: Ashok Vihar,  
Delhi.

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8. Deepender Pathak (RR/90),  
DCP/Crime, Delhi Police,  
Police Headquarters, MSO Building,  
I.P. Estate, New Delhi.
  9. L. Hrangnawna (SPS/90),  
S.P./Crime, Aizwal, Mizoram.
  10. Vivek Gogia (RR/91),  
DCP/South Distt., Delhi Police,  
PS: Hauz Khas, New Delhi.
  11. Smt. Nuzhat Hassan (RR/91)  
DCP/East Distt. Delhi Police,  
Shalimar Park, Bholanath Nagar,  
Shahdara, Delhi.
  12. Rajender Pal Upadhyaya (RR/91),  
AIGP/DAMAN & DIU,  
Dadra Nagar, Haveli.
  13. Virendra Singh (RR/91),  
SP/Chandigarh, Punjab.
  14. J.Bagra (SPS/91), SP (HQ),  
Arunachal Pradesh ...Respondents.

(By Advocates Shri Madhav Panikar for respondents 1 and 3, Shri Ajesh Luthra for respondent No.2, Shri A.K. Bhardwaj for respondent No.4)

O R D E R (ORAL)

Hon'ble Shri R.K. Upadhyaya, Member (A).

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed seeking a direction to the respondents to quash and set aside the orders dated 24.7.2001 rejecting the representation of the applicant.

2. The applicant joined the Dadra, Andaman, Nicobar Islands Police Service (DANIPS for short), Group B on 1.11.1976 on the basis of qualifying in the Civil Services Examination held in the year 1975. It is stated that in terms of Indian Police Service (Appointment by Promotion) Regulations, 1955, the

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applicant became eligible for consideration for appointment by promotion to the Indian Police Service (IPS for short) in the year 1986 itself. On account of reorganisation of Arunachal Pradesh, Goa, Mizoram & Union Territories Cadre of IPS, no DPC could be held during the years 1987 to 1990. However, the applicant was placed in the select list for appointment by promotion in 1991. His name was included in the subsequent select lists also till he was promoted on the basis of select list of 1998 as per Notification dated 12.3.1998 (Annexure-II). He was allotted 1991 as the year of allotment to the IPS. It is claimed that the applicant was appointed to the post of Deputy Commissioner of Police, Rashtrapati Bhawan w.e.f. 19.10.1991, a regular cadre post in the IPS and continued to officiate in the said post till 28.7.1997. He was on ex-cadre post of DCP/Special Task Force for about six months from 28.7.1997 to 12.3.1998, i.e., the date when he was promoted to IPS. The applicant claims that he should have been confirmed in IPS w.e.f. October, 1992, i.e., after the completion of one year on the cadre post of IPS. According to the applicant, the provisions of Rule 3 (2) of the IPS (Probation) Rules, 1954 read with the provisions of Rule 3 of IPS (Regulation of Seniority) Rules, 1988 could help in resolving the hardship caused to the applicant. It was in this context that he made a representation dated 22.4.1998 (Annexure-V) which has been rejected and has given rise to the present application. In the representation dated 22.4.1998 (Annexure-V), the applicant has stated that he was entitled for confirmation w.e.f. October, 1992 i.e. after

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completion of one year on the cadre post. It was also pointed out in this representation by the applicant that cadre rules of All India Services provide for posting of select list officers to man the cadre posts in the absence of cadre officers only for short durations. However, in this case, the applicant worked for long six years. Therefore, his posting on a cadre post could not be treated as a temporary or a stop gap arrangement. He has, therefore, requested for grant of regular appointment in IPS w.e.f. October, 1992 itself. During the course of arguments, learned counsel of the applicant has drawn our attention to the order dated 15.5.2001 in O.A. 2312/1999 of this Tribunal where the applicant had claimed fixation of his seniority with reference to his posting on a cadre post. This Tribunal had observed as follows:

"13. In this view of the matter and having regard to the discussion made above and reasons recorded it would be just and proper, in the interest of justice, to give the applicant an opportunity to make a representation to the respondents under Rule 3 of the All India Services (Conditions of Service-Residuary Matters) Rules, 1960, within two weeks from the date of receipt of this order. The respondents are directed to consider the claim of the applicant for reckoning his period of continuous officiation towards seniority on a cadre post from 1991 to 1997 and also to consider accord of weightage of service rendered as DCP from 1991 to 1997 for the purposes of according him the year of allotment and to pass a detailed and speaking orders within two months thereafter, keeping in view the ratio of the Hon'ble Apex Court in Syed Khalid Rizvi V. Union of India, 1993 Supp. (3) SCC 575. The O.A. is disposed of, as above, but without any order as to costs".

3. Accordingly, the applicant made a fresh representation dated 23.5.2001. The learned counsel of the applicant pointed out that promotion quota should

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have been enhanced to reduce the hardship of the applicant. Referring to promotion of his batchmates as contained in Para 4.15 of the O.A., it was stated that his batchmate Shri Ujwal Mishra was promoted in the year 1991 and allotted year of allotment of IPS as 1987. Some other senior batchmates like S/Shri Mukund Upadhyaya, L.S. Sandhu and Kewal Singh were promoted in the years 1991, 1994 and 1994 respectively. The learned counsel pointed out that the hardship is manifest inasmuch as his batchmates were promoted as early as in 1991, the applicant has been promoted only in 1998. In this connection, reference was made to All India Services (Conditions of Service-Residuary Matters) Rules, 1960 and it was pointed out by the learned counsel that the Central Government had powers to relax rules and regulations in certain cases as per provisions contained in Rule 3 thereof. He also invited our attention to the case of Shri Mansur Ali Syed, an officer of the 1976 batch of DANIPS who was appointed to the IPS on the basis of the select list for the year 1987, when the seniority regulations of 1954 were in operation. The applicant is only one year junior to Shri Mansur Ali Syed but has been given promotion in the year 1998 and the year of allotment has been given as 1991. Therefore, there is a lot of discrepancy and hardship to the applicant.

4. The respondents have contested this application. In the reply filed, it has been stated that the applicant could not be appointed for want of vacancies on the basis of his name finding place in the select list prior to the select list of 1996-97. He was

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appointed to IPS by promotion as per Notification dated 12.3.1998 on the basis of this select list. According to the respondents, the representation dated 23.5.2001 of the applicant was rejected by a detailed and speaking order dated 24.7.2001 as the request made in the representation was not tenable under the rules and regulations on the subject as applicable in the case of the applicant. It has been further pointed out by the respondents that the applicant was too junior and as a matter of fact he could not get inducted into the IPS till March, 1998 in spite of the fact that he was included in the select lists prepared since 1991 onwards. The respondents have further clarified that the benefit of weightage for the period of continuous officiation in a cadre post was in vogue under the IPS (Regulation of Seniority) Rules, 1954. These seniority rules were repealed and replaced by the IPS (Regulation of Seniority) Rules, 1988 by the Govt. of India, as a matter of policy decision. The scheme of according weightage for the period of continuous officiation on a senior post was replaced by the Government of India by the scheme of granting weightage for the continuous service rendered in the State Police Service not below the rank of Dy. Supdt. or equivalent. The vires of the amended seniority rules have already been upheld by the Hon'ble Supreme Court in IAS (SCS) Association, UP & Ors. Vs. Union of India & Ors. (1993 Supp (1) SCC 730). It has further been pointed out by the respondents that seniority has to be determined by the rules in force on the date of appointment in service. In view of the fact that the applicant has been appointed to IPS in March, 1998, the rules of seniority

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applicable on that date have been applied in his case. Therefore, there is no merit in the contention of the applicant that there was any violation of rules of seniority while rejecting his representation. It is also pointed out by the respondents that there is no case made out for relaxation of any regulations as per powers available with the Central Government under All India Service (Conditions of Service-Residuary Matters) Rules, 1960 as no junior to the applicant has been placed senior to him or promoted earlier than the applicant. If there were no vacancies available, he could not be promoted along with his seniors. It was, therefore, urged by the learned counsel of the official respondents that the entire application being misconceived deserves to be dismissed.

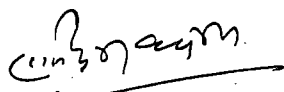
5. We have heard the learned counsel for the parties and have perused the materials available on record.

6. There is no dispute that the applicant's name was included in the select list for promotion to the IPS from January, 1991 onwards. He was actually appointed to IPS as per Notification dated 12.3.1998. Therefore, the rules of seniority applicable on the date of his induction into the IPS have to be followed. The applicant is trying to make out a case that some sort of injustice has been done inasmuch as some persons one year senior to him or even some of his batchmates have been appointed to IPS much earlier than the applicant. The entire grievance made out is misconceived inasmuch as no person junior to the applicant has been appointed

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to IPS and given seniority prior to the applicant. In a Government service, it is very common that persons recruited in the same year get promotion at different time depending on the number of vacancies available. A person holding higher position in the selection gets promotion earlier than those persons who are placed lower in the list. It is the normal feature of a Government employment. Therefore, the grievance made out by the applicant citing the cases of early promotion of his seniors, like Shri Mansur Ali Syed and the officers of his own batch, namely, S/Shri Ujjwal Mishra, Mukund Upadhyaya, L.S. Sandhu and Kewal Singh, is misconceived. All of them are seniors to the applicant and have been promoted to IPS in their turn on the basis of their seniority on vacancies being available for them. That being the case, there is no question of any hardship to the applicant, as alleged. Therefore, relaxation of any rules for removing such assumed undue hardship is not justified. This application being devoid of any merits is accordingly dismissed. No order as to costs.



(R.K. Upadhyaya)  
Member (A)



(V.S. Aggarwal)  
Chairman

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