



CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A.350/1678/2019
M.A.350/985/2019

Date of order : 24.01.2020

Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

ASHUTOSH PRASAD & OTHERS
VS.
UNION OF INDIA & OTHERS
(R.R.B.)

For the applicant : Mr. M.P. Dixit, counsel
Mr. A.K. Khan, counsel

For the respondents : Mr. K. Sarkar, counsel



ORDER

Bidisha Banerjee, Judicial Member

This O.A. has been preferred to seek the following reliefs:-

"8.1) That your Lordships may graciously be pleased to declare the impugned modification in Para-330 of IREM Vol-1 vide RBE No.33 of 2018 dated 05.03.2018 as contained in Annexure A/3 wherein it has been inserted that the "SCRAs w.e.f. 2003 examination, shall count service for seniority from the year of allotment. The year of allotment of an SCRA will be fifth year following the year of examination as null, void, ab initio wrong, discriminatory, ill motivated, without any logic, unconstitutional, against the principle of Promissory Estoppel, punitive, colourable exercise of power, against Article 14 & 16 of the Constitution of India but also contradictory to Para-329 of the IREM Vol-1 as referred in the said RBE 33/2018 which clearly shows that up to SCRA 2000 Examination batch have been considered with +3 years IES Batch but now with said medication i.e. "The year of allotment of an SCRA will be fifth year following the year of examination." The SCRA 2003 batch officers i.e. applicants became one year junior to the IES 2006 batch officers, hence the Respondents may be directed to issue amendment henceforth in RBE 33/2018 otherwise it will be grossly unfair, illogical and contrary to settled principle of law and judicial pronouncements which clearly speaks that "It is well settled that the Government cannot and should not alter or modify any circular retrospectively which may affect or prejudice the right of the Government servants;

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8.2) That your Lordships may further be pleased to direct/command the Respondents to modify RBE 33 as contained in Annexure A/3 as follows;

The year of allotment of an SCRA will be 4th year following the year of examination as a result of this correction, SCRA 2003 and IES 2006 Batches would have the same year of allotment. Hence, the respondents should be directed to issue corrigendum to their order dated 19.08.2019 as contained in Annexure A/7 henceforth by inserting/including the name of applicants for promotion to the Selection Grade clubbing SCRA 2003 Examination batch with IES 2006 Batch officers figured in the list of eligible officers enclosed with Annexure A/7 dated 19.08.2019 and thereafter proceed with the process of promotion in Selection Grade after calling the APAR Dossiers of applicants also;

8.3) That your Lordships may graciously be pleased to direct/command the Respondents to grant all consequential benefits in favour of applicants;

8.4) Any other relief or reliefs including the cost of the proceeding may be allowed in favour of the Applicant."

2. The M.A.350/985/2019 has been preferred to move the O.A. jointly under Section 4(5)(a) of C.A.T.(Procedure) Rules, 1987.

Having heard both sides, the M.A. is allowed as the applicants are identically aggrieved, ^{subject to} upon payment of individual court fees.

3. At hearing it transpired that the applicants preferred representations to the respondent authorities to club SCRA 2003 batch and IES 2006 batch together for Selection Grade panel and to include their names in the list of eligible officers of IRSME 2006 for placement in the Selection Grade and for quashing modification of Para 330 of IREM Vol.I vide RBE No.33 of 2018 which states that SCRA's with effect from 2003 examination shall count service for seniority from the year of allotment and the year of allotment of SCRA will be the 5th year following the year of examination which according to them is arbitrary, unjust, discriminatory, ill motivated, without any logic, unconstitutional,



against the principle of promissory estoppel, punitive, made in colourable exercise of power and against the Articles 14 and 16 of the Constitution of India. They have claimed that past precedence over decades shows that SCRA batches have often been granted selection grade along with +3 IES batch clubbed with +3 years IES batch. The modification made selectively from SCRA 2003 batch is grossly unfair and against the well settled principle that Government cannot and should not alter or modify any circular retrospectively which may affect or prejudice the right of the Government servants. Since a representation to that effect has been preferred to the Railway which is yet to be decided, Id. counsel for the applicant submits that he would be fairly satisfied if the O.A. is disposed of with a direction upon the respondents to consider and dispose of the representation in a time bound manner.

4. On 18.12.2019 we directed Mr. Sarkar, Id. counsel for the respondents to take instructions on whether the representation dated 30.08.2019 as contained in Annexure A/8 had already been disposed of. No instructions could be obtained to that effect.

5. In view of the innocuous prayer made by the applicants we dispose of this O.A. without calling for a reply and without entering into the merits, with a direction upon the competent authority to consider their grievances in accordance with law and to issue appropriate orders on the representation dated 30.08.2019 within two months from the date of receipt of this order.



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6. Accordingly the O.A. stands disposed of. No order as to costs.

(Dr. Nandita Chatterjee)
Administrative Member
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(Bidisha Banerjee)
Judicial Member

