

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1431/2000

(20)

This the 11th day of March, 2002.

HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE-CHAIRMAN

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Yag Datt. Sehgal, (IAS Retd.)
S/O Asa Nand Sehgal,
R/O A-14/2 Vasant Vihar,
New Delhi-110057.

... Applicant

(In person)

-versus-

1. Govt. of India through
Ministry of Personnel, Public
Grievances & Pensions,
Department of Personnel & Training
AIS-II, Central Secretariat,
North Block, New Delhi.
2. Govt. of U.P. through
Chief Secretary,
Sachivalaya,
Lucknow. ... Respondents

(By Shri S.K.Gupta, Advocate for Respondent No.1,
None for Respondent No.2)

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant has challenged Annexure A-1 dated 21.8.1998 whereby his notional pay as on 1.1.1986 has been fixed in the Senior Time Scale (STS) of IAS of Rs.3200-4700. He has also challenged Annexures A-2 and A-3 dated 1.1.1999 and 29.11.1999 respectively whereby respondents have rejected his representations for fixing his notional pay in Junior Administrative Grade (JAG) of IAS of Rs.3950-5000 as on 1.1.1986 instead of the STS of Rs.3200-4700.

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2. Applicant, who appeared in person, stated that he was an IAS officer of U.P. cadre with 1973 as the year of allotment. He retired on 28.2.1985. By then he had completed 12 years and was in the 13th year of service in the IAS and was on the threshold of placement in the next higher selection grade then admissible in the 14th year. He was at the maximum pay of Rs.2000/- per month of the pre-1986 STS of IAS of Rs.1200-2000 and in fact had stagnated for some time at that stage. According to applicant, in terms of the Third Central Pay Commission (CPC) recommendations accepted by Government of India, pre-1986 STS of IAS was a composite scale covering the range of the usual (two) pre-1986 scales, namely, STS and JAG of other services, devised by the CPC so as to give an edge to the IAS and called the "long" STS as distinct from the usual "shorter" STS. The Fourth CPC recommended for the IAS, again a "long" replacement scale of Rs.3000-5000 for the pre-1986 "long" STS of the IAS. However, Government of India, Department of Expenditure vide their resolution dated 13.3.1987 bifurcated it into smaller STS and JAG w.e.f. 1.1.1986 within the same overall range as recommended. According to applicant, the modification thus had the effect - only of restoring the original JAG name to the separated upper part, otherwise there was no difference in the attributes of the revised JAG and the upper segment of the pre-1986 STS. Thus, applicant should have been accorded correct equivalent/replacement/corresponding scale w.e.f. 1.1.1986 of the pre-1986 "long" STS of the IAS.

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3. Vide Annexure A-4 dated 10.2.1998, Government of India issued guidelines for notional pay fixation of the pre-1986 pensioners w.e.f. 1.1.1986 on the recommendations of the Fifth CPC.. As per these guidelines, pension of all pre-1986 pensioners was to be updated by first notionally fixing their pay as on 1.1.1986 by adopting the same formula as for the serving employees and thereafter for the purpose of consolidation of their pension as on 1.1.1986, they were to be treated like those who retired on or after 1.1.1986. Pay of the serving officers of applicant's category, i.e., having same seniority in the IAS, same pay and pay scale as of the applicant, was fixed in the JAG, i.e., Rs. 3950-5000. STS and JAG w.e.f. 1.1.1986 were made admissible on 4 and 9 years of service in the IAS respectively, while the pre-1986 "long" STS was admissible from 6 years onwards till at least 14th year when selection grade became due.

4. On the other hand, Shri S.K.Gupta, learned counsel of respondent No.1, stated that STS of IAS was revised to Rs.3200-4700 w.e.f. 1.1.1986 and another JAG was introduced in the IAS in the pay scale of Rs.3950-5000 w.e.f. 1.1.1986 on the recommendations made by the Fourth CPC. Further, on the basis of recommendations of the Fifth CPC, the STS and JAG were revised to Rs.10650-15850 and Rs.12750-16500 respectively. He maintained that applicant having retired prior to 1.1.1986 when JAG was introduced in the IAS, was rightly placed in the replacement scale of STS of Rs.3200-4700 w.e.f. 1.1.1986, as he had retired from STS (Rs.1200-2000). The learned counsel also drew our

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attention to Annexure R-II dated 14.9.1989 relating to "IAS (Pay) Rules, 1954 - Fixation of pay of SCS officers appointed to IAS direct in Junior Administrative Grade", wherein it was clarified as follows :

"The Junior Administrative Grade has been introduced with effect from 1.1.1986. This grade is part of the senior scale and is non-functional. Appointments to this grade are not made on the basis of the selection with due regard to seniority. The members of the service who have completed 9 years of service are eligible for appointment to this grade under the proviso to sub-rule (1) of Rule 3 of the IAS (Pay) Rules, 1954."

Learned counsel stated that if applicant had retired on 31.1.1986 he would certainly have been accorded JAG w.e.f. 1.1.1986.

5. None appeared on behalf of respondent No.2, i.e., Government of U.P. Thus, they were proceeded in terms of Rule 16 of the C.A.T. (Procedure) Rules, 1987.

6. It is clear from Annexure R-II dated 14.9.1989 that JAG was a part of the senior scale and ~~was~~ non-functional. IAS officers with 9 years of service were eligible for placement in the JAG w.e.f. 1.1.1986. Respondents have admitted that such members of the Service who had completed 9 years of service prior to 1.1.1986 and had not retired, were placed in JAG. There is also no dispute that prior to 1.1.1986, STS of Rs.1200-2000 was in vogue and members of IAS were eligible for promotion to the next higher selection grade in the 13th year of service. However, with the advent of the Fourth CPC w.e.f. 1.1.1986, two scales were introduced, namely,

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STS-Rs.3200-4700 and JAG-Rs.3950-5000. Respondents have granted the scale of Rs.3200-4700 to applicant in replacement of STS, which he enjoyed till his superannuation.

7. Learned counsel of respondent No.1 stated that applicant was rightly accorded the scale of Rs.3200-4700 as replacement of STS. According to him, as JAG was introduced w.e.f. 1.1.1986 only and applicant had retired prior to that, he could not have been given benefit of JAG. However, he admitted that members of IAS who had put in 9 years of service prior to 1.1.1986 and had not retired, were granted JAG as replacement for STS. Respondents have not been able to satisfactorily provide any justification for granting the scale of Rs.3200-4700 as replacement scale for earlier STS of Rs.1200-2000 and not JAG, though they had granted the higher JAG to members of IAS with 9 years of service vis-a-vis applicant's 12 years of service in IAS. Rationale of applicant not being in service as on 1.1.1986 for availing placement in JAG, is not acceptable. JAG was merely a non-functional grade which was made available to members of IAS who had completed 9 years of service. Applicant had rendered more than 12 years of service prior to superannuation on 28.2.1985.

8. In the facts and circumstances of the case, a more beneficial interpretation to the provisions has to be given in the matter of replacement scales vis-a-vis pre-1986 scales. While the pre-1986 STS was Rs.1200-2000, there is no reason why JAG should not be



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granted to applicant and why STS of Rs.3200-4700 only should be granted to him. Interest of justice would be served only to allow applicant replacement in JAG when he had already rendered more than 12 years of service in STS vis-a-vis his active colleagues who had done only 9 years in that scale.

9. Having regard to the discussion and reasons recorded above, we find merit in the OA and allow the same directing respondents to fix applicant's notional pay as on 1.1.1986 for purpose of revision of his pension in the JAG of Rs.3950-5000 of IAS (instead in the STS of Rs.3200-4700). However, simultaneously it is clarified that whereas applicant will have notional benefits in his pension w.e.f. 1.1.1986 and 1.1.1996, he will be entitled to actual benefits with effect from the date of these orders only.

10. The OA is allowed in the aforesated terms.
No costs.

V. Majotra

(V. K. Majotra)
Member (A)

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

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