

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A./100/3462/2017

New Delhi, this the 9th day of September, 2020

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**



Jitender Singh, aged about 43 years,
S/o Shri Rajender Singh,
Working as Assistant Commissioner
in the Office of Commissioner of Income Tax,
Gurugram

...Applicant

(Through Shri Narender Hooda, Senior Advocate)

Versus

1. Union of India
Through the Secretary
Ministry of Personnel, P.G. & Pensions,
North Block, New Delhi
2. Union Public Service Commission
Through Chairman,
Dholpur House, Shahjahan Road,
New Delhi-110003
3. Shri Bhopal Singh IRS, (2008 Batch)
Dy. Commissioner of Income Tax,
(Central)
Headquarters, HSIIDC Building,
Udyog Minar, Udyog Vihar Phase-V
Gurgaon (Haryana) 122016



4. Shri Praduman Kumar Singh
IRS (2009 Batch)
Dy. Director of Income Tax (Inv.)
CGO Complex-1, Purani Hapur
Chungi, Ghaziabad (Uttar Pradesh)-201002
 5. Shri Kali Charan, IRS (2009 batch)
Dy. Commissioner of Income Tax,
(Central Circle),
HSI IDC Building, Udyog Minar,
Udyog Vihar Phase-V,
Gurgaon (Haryana) 122016
 6. Shri Rajesh Kumar, (IRS 2009 batch)
Dy. Commissioner of Income Tax,
Aayakar Bhawan,
Sector-14, Hisar (Haryana) -125001
 7. Shri Gaurav Bansal, IRS (2010 batch)
Dy. Director of Income Tax (Inv)-III
HSI IDC Building, Udyog Minar,
Udyog Vihar Phase-V,
Gurgaon (Haryana) 122016
 8. Shri Sunil Kumar, IRS (2010 batch)
Dy. Director of Income Tax (Inv),
CGO Complex – I, Purani Hapur
Chungi, Ghaziabad (Uttar Pradesh)-201002
 9. Smt. Seema Dhankar, IRS (2010 batch)
Dy. Director of Income Tax (Inv)-I
HSI IDC Building, Udyog Minar,
Udyog Vihar Phase-V,
Gurgaon (Haryana) 122016
 10. Shri Praveen Kumar, IRS (2011 batch)
Dy. Director of Income Tax (Inv)
Aayakar Bhawan, SCO 25-28,
Sector-12, Karnal, (Haryana)-132001 ...
- Respondents

(Through Shri Rajeev Kumar and Shri Ravinder Agarwal,
Advocates)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman



The applicant took part in the Civil Services Examination of 2006. He claimed the benefit of reservation under Orthopedically Handicapped category. On the basis of his rank and the preferences, he was allocated to the Indian Defence Accounts Service (IDAS).

2. Extensive litigation ensued in the context of implementation of the reservation in All India Services at the stage of direct recruitment. The High Courts and the Hon'ble Supreme Court found that quite large number of vacancies meant for reservation in favour of Physically Handicapped categories were not filled. Directions were issued to calculate the vacancies from the year 2006 onwards and to make re-allocation of the candidates as per the merit and preferences.



3. In the case of the applicant, the implementation of the directions was to result in his allocation to IRS(IT). The UPSC is also said to have made recommendation in this behalf through their communication dated 30.08.2011. He filed this OA with a prayer to direct the respondents to implement the recommendations of the UPSC contained in the letter dated 30.08.2011. It is also mentioned that under similar circumstances, this Tribunal directed the change of allocation of the service to the deserving candidates under the Physically Handicapped candidates.

4. The respondents filed a detailed counter affidavit explaining the entire history of the allocation of service to the PH candidates ever since 2006. In all fairness, they have admitted that the applicant was to be allocated IRS(IT) with effect from 2006. It is also stated that final step in this behalf is deferred,

awaiting the judgment of the Honble Supreme Court in **Pankaj Kumar Srivastava** in Civil Appeal No.330/2015.



5. We heard Shri Narender Hooda, Senior Advocate on behalf of the applicant and Shri Rajeev Kumar and Shri Ravinder Agarwal, learned counsel for respondents.

6. The applicant was allotted to IDAS under the PH category in the year 2006. As mentioned earlier, extensive litigation ensued complaining that the vacancies earmarked in each of the services were in favour of the PH category were not filled. Directions were issued by the High Courts and Supreme Court to work out such vacancies from 1996-2006 and to make re-allocation. The applicant was not party to any of the cases that were filed in that behalf. All the same, the respondents extended the benefit to the applicant and it emerged that he would have been

eligible to be allocated to IRS(IT) in the year 2006 itself. However, the very issue is said to be pending before the Hon'ble Supreme Court in Civil Appeal No.3303/2015.



7. The respondents wanted to be a bit cautious, before a final step in this regard is taken. The apprehension seems to be that the allocation may result in disturbing the seniority of quite large number of members of the service, to which the candidates are re-allocated.

8. In certain OAs, this Tribunal took the view that once the UPSC worked out reallocation, there is no basis to delay it further. The OAs were allowed and the candidates were directed to be allocated to the services to which they are otherwise entitled to. It is also evident that the consequences of such reallocation was a bit mellowed down, obviously

keeping in view the pendency of the Civil Appeal before the Honble Supreme Court.



9. In the instant case, the applicant is entitled to be allocated to IRS(IT). Incidentally, on the basis of his own merit in the subsequent Civil Service Examination of 2010, the applicant was allocated to IRS(IT) and he is presently working in that. The exercise of reallocation of the applicant, undertaken by the respondents has, to a large extent materialised, may be on account of his own merit in the CSE 2010. What remains to be done is the reckoning of his service between 2006 and 2010 and the consequential benefits in the cadre of IRS.

10. We are not shown any instances where final reliefs in the form of seniority and upgradation of pay scale etc. being granted to similarly situated persons. That can await the outcome of the Civil Appeal.

11. We, therefore, dispose of the OA directing that the seniority of the applicant in the IRS as a consequence of the exercise undertaken by the UPSC and DoPT for reallocation of cadre shall be worked out depending upon the judgment of the Hon'ble Supreme Court in Civil Appeal.



There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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