

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/00126/2019

HYDERABAD, this the 7th day of October, 2020.

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member



Smt.C.Anasuya, Aged about 54 years,
Dy Commissioner of Police (Admn),
Cyberabad Police Commissionerate,
Hyderabad, State of Telangana.

...Applicant

(By Advocate : Mr.K.Sudhaker Reddy)

Vs.

1. Union of India, Rep by its Secretary,
Ministry of Home Affairs, New Delhi.
2. The State of Telangana, Rep by the Chief Secretary,
Secretariat, Hyderabad.
3. The Govt of Telangana, Rep by its
Secretary to Govt.(Political), Dept of General Administration,
Secretariat (SC-C), Hyderabad.
4. The Principal Secretary to Govt, Dept of Home,
Telangana, Secretariat, Hyderabad.
5. The Director General of Police,
Govt of Telangana, Secretariat, Hyderabad.
6. Union Public Service Commission,
Rep by its Secretary, Dholpur House, New Delhi.
7. The Secretary, Department of Personnel &
Training, New Delhi.

....Respondents

(By Advocate : Mr. V. Vinod Kumar, Sr. CGSC for RR1& 7
Mr. P. Ravinder Reddy, Spl.Counsel for State of Telangana for RR 2 to 5
Mr. B. N. Sharma, SC for UPSC, for R-6)

ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:



2. The OA is filed to direct the 2nd respondent to send proposals to the UPSC/ Union of India for considering applicant's case under provisions of Regulation 5(2) of the IPS (Appointment by Promotion) Regulations, 1955 (for short "***Regulations 1955***").

3. Brief facts of the case are that the Andhra Pradesh Public Service Commission (for short "***APPSC***") notified 19 vacancies of Dy. Superintendent of Police (for short "***DSP***") in Group I cadre vide Notification No.5/1998, but filled up only 10 posts of DSPs by withdrawing the balance 9 posts. When the same was legally challenged, based on the Hon'ble Supreme Court vide order in CA No. 4129/2006, dt. 14.09.2006, the applicant, who was initially appointed as Divisional Accounts Officer, was appointed as DSP in Group I service on 24.08.2011. Further, the State Government vide G.O.Ms. No. 100, dated 01.09.2016 revised the notional date of joining of the applicant as DSP to 19.06.2001. In addition, APPSC vide letter dt. 12.03.2012 furnished the merit cum seniority of 19 DSPs to the Government and the Director General of Police of Andhra Pradesh and based on the same the name of the applicant was shown at Sl. No. 19 in the seniority list which was confirmed by the Government vide GOMs. No. 45, dt. 27.03.2017. Later, the respondents granted notional promotion to the applicant as Addl. SP w.e.f. 01.08.2008 and promotion as SP (NC) on 31.10.2017 respectively.



4. The contentions of the applicant are that the Government in GO Ms. No. 100, Home Services-I, dated 01.09.2016, revised her notional date of joining as DSP as 19.06.2001. Therefore, she is deemed to be in service continuously as Group I officer from 19.06.2001 onwards. Consequently, she is eligible to be considered for promotion to the cadre of Indian Police Service having completed 17 years of service. APPSC has also drawn up the merit cum seniority list wherein applicant names figures at Sl. 19 which was furnished to the DGP/ Govt. and the said seniority was confirmed by the Government vide GOMs. No. 45, dt. 27.03.2017. For promoting the applicant, notional date of joining as DSP as on 19.06.2001 alone should be taken for the purpose of counting 8 years of service under Regulation 5 of the Indian Police Service (Appointment by Promotion) Regulations 1955. Consequently, she is entitled to have her name included in the Select List of IPS on par with her batch-mates viz., K. V. Mohan Rao and PHD Ramakrishna for the select list of the year 2010 as per G.O. Rt. No. 5762, GAD (Sec. C) Department, dated 23.12.2011 and reckon 2006 as the year of allotment. Applicant submitted a representation to the respondents for initiating proposal for including her name in the select list of IPS on par with officers referred to above. Though she is eligible as per the relevant Rules, not considering her for appointment to IPS cadre is violative of Articles 14 and 16 of the Constitution of India. Applicant cannot be denied her right for consideration for appointment to IPS because the State Government failed to send proposal under the guise that she has not completed 8 years of continuous service in the post of DSP by ignoring the

notional seniority granted to her under GO Ms. No.100. Respondents denial of the same has led to the emergence of the O.A.

5. Respondents filed a reply statement opposing the OA.

6. Heard both the counsel and perused the pleadings on record.



7. The main contention of the applicant is that since her notional seniority has been fixed from the year 2001 consequent to the judgment of the Hon'ble Supreme Court referred to above, she is deemed to be in continuous service from 2001 in DSP cadre and completed the requisite number of service, thereby she is entitled to be considered for appointment to IPS under Regulation 5 of Indian Police Service (Appointment by Promotion) Regulations, 1955. APPSC also released the merit cum seniority list on 12.03.2012 and the same was confirmed by the Government vide GOMs. No. 45, dt. 27.03.2017. Later, applicant was granted notional promotion as Addl. SP w.e.f. 01.08.2008 vide GO Ms. No. 13, dt. 03.02.2017 on par with her batchmates. Subsequently, she was also promoted as SP (NC) vide GO Ms. No. 1307, dt. 31.10.2017. In view of the above, the applicant claims that she is eligible to be appointed to IPS under the IPS (Appointment by Promotion) Regulations 1955 and denying the same is violative of Articles 14 & 16 of the Constitution of India.

It is understood that the respondents have refused to grant the relief sought for, as the applicant has not worked continuously in the post of DSP for 8 years to be considered for promotion to the IPS under the relevant Regulations. Learned counsel for the applicant pleaded that the applicant may be permitted to make a comprehensive representation to the

respondents stating the rules and law and the respondents be directed to consider and dispose of the same within a reasonable period of time. The same issue fell for consideration before this Tribunal in OA Nos. 879/2018 & Batch which was disposed vide order dt. 17.03.2020. In the said batch of cases also, this Tribunal gave liberty to the applicants therein for making comprehensive representations to the respondents for due consideration as per law. Similar consideration for this applicant as well would meet ends of justice.



We therefore, permit the applicant to make a comprehensive representation to the 2nd respondent within a period of two weeks from the date of receipt of this order. The 2nd respondent is directed to dispose of such representation within 12 weeks from the date of receipt of the said representation, in accordance with rules and law keeping in view the contentions made by the applicant in the OA as well as in the representation, by issuing a speaking and reasoned order.

With the above direction, the OA is disposed of, with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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