

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 615 of 1988.

Sri B.K. Awasthi Applicant.

Versus

Union of India & others Respondents.
-----Hon'ble D.K. Agrawal, J.M.
Hon'ble K. Obayya, A.M.

(Delivered by Hon. D.K. Agrawal, J.M.)

The applicant's grievance in this case, filed under Section 19 of the Administrative Tribunals Act, 1985, is regarding his seniority and year of allotment in the Indian Administrative Service (IAS).

2. The facts given rise to this application, briefly, are as follows :-

The applicant was appointed to the State Civil Service (SCS) in Uttar Pradesh on 10.2.1959. His name was included provisionally in the select list of the U.P. Cadre State Civil Service Officers for promotion to IAS at Sl.No.11 in the select list, which was drawn by the selection committee on 19th and 20th December, 1983, and he was approved by the Union Public Service Commission (UPSC) on 7.3.1984. However, the inclusion of his name in the select list was subject to the grant of integrity certificate by the State Government in his favour which was dependent on the result of the representation dated 28.7.1983 against an adverse entry, relating to his work and conduct for the year 1977-78, communicated to the applicant in the year 1983. The representation was decided in favour of the applicant on 14.11.1984 and the formalities for appointment to the IAS were completed on 20.11.1984, inasmuch as a declaration was obtained from the applicant terminating his lien in the State Civil Service. Officiating appointment in the IAS was given to him on 20.11.1984. However, the State Government

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did not forward the name of the applicant to the Government of India for appointment to IAS. The next meeting of the selection committee took place on 11.12.1984 wherein the name of the applicant figured again for selection and his name was included at Sl.No.3. The said selection list was approved by UPSC on 7.6.1985 and the notification, appointing the applicant to IAS, was issued on 23.7.1985. A representation was made by the applicant on 14.8.1987 claiming 1979 year of allotment, which was given to his immediate junior Sri S.C. Dixit (Annexure 'I' to the claim petition). It was recommended by the State Government on 7.12.1987 (Annexure 'II'), but rejected by the Government of India on 11.2.1988 (Annexure 'III'). Therefore, this claim petition.

3. The State Government as well as the Government of India filed counter affidavit contesting the application. The substantial plea raised on their behalf is that after expunction of adverse remark from the Annual Confidential Report (ACR) of the applicant on 14.11.1984, although promoted to officiate in senior time scale of IAS on 20.11.1984, the time available before the next scheduled meeting of the selection committee at the disposal of State Government was too short to complete the exercise to appoint the applicant in IAS and, therefore, the applicant's name was again proposed to be included in the select list by the selection committee, which held its meeting on 11.12.1984.

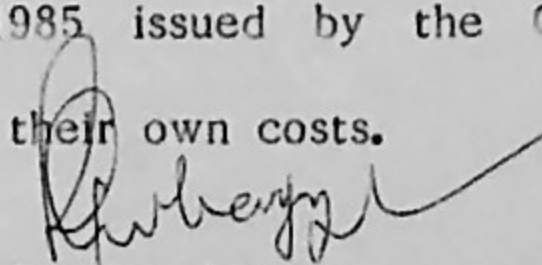
4. We have heard the learned counsel for the parties and perused the record. The original record was also produced by the State Government before us for our perusal. The main thrust in this case is whether the State of U.P. intended to allot the seniority of the year 1979 to the applicant and, if so, under what circumstances the seniority of 1980 was finally given to him. The perusal of U.P. Government's letter No.9623, DO-1-4, 1, 1001, 84, dated 7.12.87, forwarding the representation of the applicant to Government of India, makes it crystal clear that a post in senior scale of I.A.S.

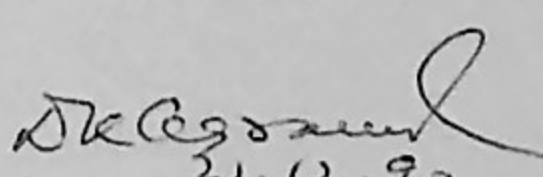
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was reserved for the applicant on the basis of select list of 1984; and that the applicant was actually appointed to a senior scale post in IAS on 20.11.1984 by the U.P. Government. However, due to an administrative error, the name of the applicant was not forwarded to the Government of India for appointment in IAS before the next meeting of selection committee held on 11.12.1984. The aforesaid letter further mentions that if the decision on the applicant's representation had been taken in time, he would have been offered an IAS post before his next junior, Sri S.C. Dixit, was promoted to IAS. Thus the U.P. Government acknowledges an administrative error on its part. Therefore, the question, which arises for determination, is whether an individual officer can be made to suffer for no fault of his own. Whether the axe of an administrative error on the part of the State Government can be allowed to fall on the applicant. Undisputedly, the seniority or promotion is a condition of service within the meaning of Article 309 of the Constitution of India. Thus the instant case is one where an officer's rightful claim has been put in jeopardy on account of an administrative error or omission. In the circumstances, we are of the opinion that the same must be set right in this individual case by a direction to allot the seniority of the year 1979 to the applicant.

5. In the result, we allow this claim petition and direct the respondents to recast the seniority list as to place the applicant just above Sri S.C. Dixit in accordance with the select list prepared by the selection committee held on 19th and 20th December, 1983 and approved by UPSC on 7.3.1984 notwithstanding the notification dated 23.7.1985 issued by the Government of India. Parties are left to bear their own costs.


MEMBER (A).


21.12.90.
MEMBER (J).

Dated: December 21st, 1990.

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