

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH,

ALLAHABAD.

O.A. NO. 812/92

Budh Chandra Applicant.

Versus

Union of India & others..... Respondents.

Hon'ble Mr. K. Obayya, A.M.

Hon'ble Mr. Maharaj Din, J.M.

(By Hon'ble Mr. K. Obayya, A.M.)

The applicant, who was appointed as Dy. S.P. in U.P. Police Service in 1964, stood promoted to the post of Commandant, R.T.S. Chunar on 1.10.77. Thereafter, he continued to hold posts like S.P., S.S.P., Commandant ~~all~~ in the senior scale of Indian Police Service (I.P.S.).

2. He was considered for inclusion in the Select List for promotion to I.P.S. in the year 1985. Against 17 vacancies, a list of 34 candidates was prepared in which the name of applicant figured at serial number - 6. The list, however, could not be operated till 4.11.1988 due to stay order, issued by the High Court, Allahabad in Writ Petition No. 1549 of 1986 (Basant Singh Vs. State of U.P. & others.) The stay order was vacated by the Hon'ble Supreme Court (Rana Ranbir Singh Vs. State of U.P.) (1989(1) SLR para 1) and thereafter on 6.2.1989, the Union Public Service Commission approved the list prepared on 27.12.1985 and vide order dated 15.12.1989 (Annexure-AI) the applicant was appointed to Indian Police Service.

3. The grievance of the applicant is that though he belongs to 1985 Select List due to stay order passed by the High Court, Allahabad, the notification

of his promotion by U.P.S.C. was issued in 1989 only. Consequently his appointment to I.P.S. was delayed by four years, though there were vacancies in 1986 and earlier years. This has resulted in loss of seniority in I.P.S. and affected further promotional prospects. According to him he should be given 1986 vacancy in the senior scale.

4. It appears that a number of cases were filed in the Tribunal as well as in the High Court and Supreme Court challenging the I.P.S select list of 1985 ultimately, the list was up-held. Shri Sudhir Agarwal-learned counsel appearing on behalf of the applicant urged that the applicant has been continuously officiating on the senior scale-post of Indian Police Service since 1977 and that his name was included in the select list of 1985 but delay in notifying the selection list by U.P.S.C. due to operation of stay order of High Court has resulted in denial of promotion on the due date, and the applicant should ^{not} ~~may~~ be made to suffer for no fault of his. The learned counsel urged that the applicant was entitled to get the promotion from the date of occurrence of vacancy or from the date from which the appointment could have been made, had there not been stay order.

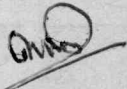
5. Learned counsel for the applicant stated that in T.A. No. 105/92 'Ravindra Deo Tripathi Vs. Union of India & others' decided by the Tribunal on 19.7.1992 in which an identical matter of retrospective appointment of Select-List-Officers of 1985 was involved, and the Bench while considering the matter allowed the application and directed as follows:-

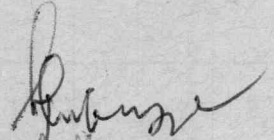
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"The applicant could have got appointment to I.P.S. earlier which shall be given notionally with consequential benefits. It may involve certain officers who are not party to this case and we direct the respondents that the case of the applicant alongwith others, including the period during the interim order and those who are not appointed from the due date will be considered by the respondents within two months of the receipt of the copy of this judgment and taking into consideration the seniority position and including the period during which there was interim order and appointment may be given to the applicant notionally from due date obviously taking into consideration the other persons also in the panel and position of other persons who were appointed from this select list."

6. We have given our serious consideration to the averments made and the submissions of the learned counsel for the applicant. It would appear that the select lists for promotion to I.P.S. in U.P. State have been under the challenge in the courts of law and also this Tribunal. These matter related to interse seniority, non consideration of the candidates for promotion / seniority etc. So far as the controversy in the instant case before us is concerned the principle of entitlement for appointment retrospectively from the dates when the vacancies were available was upheld. We are of the view that the issue is settled by the previous decision of the Tribunal and accordingly we direct the respondents to appoint the applicant ^{IPS} to ~~from~~ the due date on which the vacancy was available to ~~him~~ ^{IPS} on notional basis and also ~~give~~ ^{le} other service benefits like seniority,

year of allotment and also promotions in accordance with Law. The application is allowed as above. No order as to costs.


J.M.


A.M.

DATED:- 27 AUGUST, 1992.

/am/