

**CENTRAL ADMINISTRATIVE TRIBUNAL,  
LUCKNOW BENCH,  
LUCKNOW.**

**Original Application No. 512 of 2006**

Reserved on 16.4.2014  
Pronounced on 2<sup>nd</sup> May, 2014

**Hon'ble Mr. Navneet Kumar, Member -J  
Hon'ble Ms. Jayati Chandra, Member-A**

A.K. Tandon, aged about 60 years, S/o late Dr. Bal Mokand, R/o 3/102 Deepak Apartments, Sahara Estate, Jankipuram, Lucknow.

.....Applicant

By Advocate : Sri S. Lawania

Versus.

1. Union of India through Secretary, Department of Personnel & Training, New Delhi.
2. State of U.P. through Chief Secretary, Civil Secretariat, Government of U.P., Lucknow.
3. Secretary (Appointment), Government of U.P., Civil Secretariat, Lucknow.

.....Respondents.

By Advocate : Sri Rajendra Singh and Sri U.N. Mishra.

**O R D E R**

**Per Ms. Jayati Chandra, Member-A**

The applicant has filed this O.A. under Section 19 of Administrative Tribunals Act, 1985 seeking following relief(s):-

- "(a) to direct the respondents to grant the applicant higher, highest and higher than the highest pay in the PCS cadre and consequently correctly fix his pay in the IAS cadre on his confirmation on 2.12.2005 and pay the difference of pay with interest @ 18% p.a. within a specified time.
- (b) to direct the respondents to fix the pension and other retiral dues on the basis of aforesaid fixation in the PCS and IAS cadre.
- (c) .....
- (d) ....."

*J. Chandra*

2. The applicant joined Provincial Civil Services (PCS) in the year 1980 and was accorded the benefit of earlier of Army service and his seniority was fixed in the year 1969 of the PCS. He was inducted to the IAS cadre under the provisions of IAS Cadre (Appointment by Promotion) Regulations 1955 and was assigned 1988 batch of the IAS cadre. He under went the training w.e.f. 15.9.1997 to 17.10.1997 at Lal Bahadur Shastri National Academy under rule 5 of the Probation Rules to recruited to the IAS under IAS cadre (Appointment by Promotion) Regulations 1955 are on probation for a period of one year which can be extended by Central Government for a period of another one year in terms of Rule 3 of the Probation Rules. Thus, he should have been confirmed his confirmation to the IAS on 25.1.1997 after one year of his initial date of promotion.

3. The Government of India vide its letter dated 1.7.1972 had noted that there were unfortunate occasion where the members of the service are kept on probation for years and directed that save for exceptional reasons, the period of probation should not be more than the normal period i.e. 4 years. It further provides that a probationer who not making satisfactory progress or who shows himself to be inadequate for the service, in any way, should be informed of his shortcomings well before the expiry of the original probationary period so that he can make special efforts at self improvement. However, no order to confirm the applicant in IAS or that of terminating his probation was passed till 6.9.2001 i.e. maximum period of 4 years. No disciplinary case was pending and, therefore, there was no occasion for extension of probation period. However, he was issued a chargesheet on 6.9.2001 on the charges pertaining to the year 1985 when the applicant was in PCS service. As the applicant was not given the benefit of confirmation in the IAS cadre on due date, one Sri Daya Nand Lal, who has been inducted in the IAS after induction of the applicant in the IAS and was junior to him, was drawing salary in the scale of Rs. 18,300/- and subsequently had been promoted as Secretary, while the applicant being senior to him and having been inducted into IAS cadre prior to said Sri Daya Nand Lal was drawing salary in the grade of Rs. 17900/-. In the gradation list of IAS, 2004, the name of said Sri Daya Nand Lal has been shown at

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sl. No. 293, while the name of the applicant has been shown at sl. No. 279 (Annexure-2). As he was not confirmed in the IAS by virtue of order No. G.I. M.H.A. letter No.4/12/60/60-AIS III Dated 30.10.1966, he continued to hold his lien in the PCS cadre. Despite his continued him, he was also not allowed the benefit of pay up-gradation alongwith his juniors in the PCS. The pay scales which should have been made available to the applicant are Rs. 16400-20000/-, 18,400 - 22400/- and Rs. 22400-24,500/-, when the same was accorded to his junior in the PCS cadre namely Motil Lal, who belonged to 1971 batch and whose name finds place at sl. No. 1 in the gradation list of PCS for the year 2003; whereas the applicant is of 1969 batch of PCS. The applicant filed O.A. no. 176 of 2005, which was disposed of vide judgment and order dated 27.4.2005 directing the respondent no.1 to dispose of the representation of the applicant by passing a detailed and speaking order. Thereafter, in compliance of the directions of this Tribunal, the respondents passed an order dated 2.12.2005 by which the applicant was confirmed in the IAS cadre w.e.f. 25.1.1997. Once again being aggrieved by non-extension of the benefit on account of his confirmation in the IAS cadre, the applicant filed another O.A. no. 31 of 2006. During the pendency of the said O.A., the respondent no.2 filed Counter Reply enclosing therewith a copy of the order dated 22.8.2006 informing the applicant that the disciplinary proceedings initiated against him have been dropped vide order dated 22.8.2006. On the basis thereof, the applicant withdrew the aforesaid O.A. vide Tribunal's order dated 17.10.2006. However, despite his having withdrawing the said O.A. in expectation of the benefit of correct pay fixation consequent to dropping the departmental proceedings, but nothing has been done, hence this O.A.

4. The respondent nos. 2 & 3 have filed Counter Reply by which they have clarified that the applicant was inducted in IAS cadre in January, 1996 in accordance with IAS Cadre (Appointment by Promotion) Regulations 1955. He was granted senior time scale on probation in the IAS cadre as per the same rules. The next pay scale which was available to him was that of Junior Administrative Grade (JAG), which is admissible to member of service on completion of 09 years provided that no

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disciplinary action is pending against him. The relevant portion of DoP&T letter dated 28.3.2000 reads as under:-

*"An officer is eligible for appointment in the Junior Administrative Grade on completing 9 years of service. This grade is non-functional and shall be admissible without any screening as a matter of course to all the officers of the Senior Time Scale from 1st January of the relevant year except in cases where any disciplinary/criminal proceedings are pending against the officer."*

5. However, a disciplinary proceedings instituted against the applicant by issuance of chargesheet dated 6.9.2001. The inquiry officer submitted his report on 7.3.2002 in which all the charges were found proved against the applicant. The State Government's proposal to punishment of 'Censure' entry and withholding of one annual increment was referred to UPSC. The UPSC remanded the matter to the State Government saying that the applicant had reached the age of superannuation on 31.1.2006. Thereafter, the State Government took a decision to conclude the disciplinary proceedings without imposing any punishment upon the applicant (Annexure C-4 to the Counter Reply).

6. Another set of lapses/irregularities was noticed and second chargesheet dated 20.4.2004 was issued to the applicant initiating disciplinary inquiry against him. Once again the said disciplinary inquiry was terminated vide order dated 23.2.2007 (Annexure CR-5 and CR-6 respectively to the Counter Reply).

7. Coming to the matter of fixation of pay scale of the applicant as per the pay bands applicable to PCS officer the respondents have stated the applicant had been promoted to IAS cadre in January, 1996 and he has been confirmed by order dated 2.12.2005 w.e.f. 25.1.1997. Since the applicant had been promoted in the IAS cadre in January, 1996 and had also been superannuated from the IAS cadre, he cannot be granted the benefits related to the PCS cadre.

8. The applicant has filed Rejoinder Reply refuting the contentions of the respondents made in the Counter Reply and reiterating the averments made in the Original Application. In particular he has denied that his pay etc. is to be regulated in

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terms of entitlement only to JAG as the same relat to Direct recruits and not to him, specifically as he has been awarded the seniority of 1988.

9. The relief in this case, which has been sought by the applicant, is that of correct fixation of pay in the IAS cadre in accordance with higher, highest and higher than the highest pay in the PCS cadre. Notwithstanding, various acts of omission/commission etc. the final position which emerge is that the applicant was inducted in IAS cadre w.e.f. January, 1996 by order dated 2.12.2005. The applicant was confirmed in the IAS cadre w.e.f. 21.01.1997 having been allotted the batch of 1988.

10. The applicant has sought the benefit of pay as was available to his batch mate in the PCS by virtue of his continuing lien in PCS in accordance with G.I. MHA letter No. 4/12/60-AIS (III) dated 31.10.1966. The order reads as follows:-

*"A State Service Officer, on appointment to an All India Service on probation, would retain his lien in the State Service and, therefore, be entitled to all the benefits that may accrue to him in that Service (such as confirmation in the Selection Grade of the Civil Service) before his confirmation in the All India Service."*

11. This order clearly states that an officer will retain his lien in the PCS cadre only till his confirmation in the IAS. Such lien is available to an officer/employee so that on reversion (voluntary or otherwise) he may claim the benefit of continuing lien as the substantive post / service from which he was promoted. No person can continue to hold lien on two services. Thus, his lien on a substantive service (PCS) would stand automatically terminated in terms of FR-14- A (d) on his confirmation to the IAS w.e.f. 21.1.1997.

12. The applicant's pay etc. are to be regulated in term so IAS (pay) rules, 1954 Schedule II at the initial stage and subsequently in terms of such rules.

13. As the relief prayed for in this OA is that of revision of his pay in the IAS cadre in accordance with the various pay scales that was available in the PCS cadre and the consequential fixation

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of retiral dues and pension and it has been held that he is not entitled to the same, no other relief can be granted to him.

14. In view of the above, the O.A. fails and is accordingly dismissed. No costs.

*J. Chandra*  
(**Ms. Jayati Chandra**)  
Member-A

*V.P. Agarwal*  
(**Navneet Kumar**)  
Member -J

Girish/-