

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 98 of 1991 (L)

Versus

Hon'ble Mr. Justice U.C. Srivastava, VC

Hon'ble Mr. K. Obayya, Member (A)

(By Hon'ble Mr. Justice U.C. Srivastava, VC)

The applicant who was borne in U.P. cadre of Indian Administrative Service on 7.7.1973, has approached the tribunal praying that promotion in selection grade and Super Time Scale of service may be given to him with effect from the date his next junior has been promoted, with all benefits of service and adverse remarks contained in D.O. letter dated 20.9.88 and D.O. letter dated 29.2.1988 contained in Annexure No. 2,3 and 4 may be quashed. So far as rejection post of applicants' representations are concerned may also be quashed.

2. The adverse remarks were given to the applicant first on 6.2.1988 and earlier i.e. on 15.11.1985 to 31.3.1986 (Annexure 2,3 and 4). The applicant grievance is that he was promoted in Senior Time Scale of the service with effect from 24.7.1977 and confirmed in senior time scale of service with effect from 16.1.1984, but juniors persons to the applicant were promoted in the selection grade in January, 1986 w.e.f. 1.1.86 and even those who had adverse remarks and were juniors to the applicant got scale in section grade but the applicant / was passed over.

It is not necessary to enter in detail facts of the case in view of the subsequent development.

2. The respondents in their counter-affidavit have pointed out that the name of the applicant was duly considered by the selection committee in the year 1989 and 1990, but he was not found fit for promotion to Super Time Scale of I.A.S. from the due date 1.1.89. His case was reconsidered by the Selection Committee in May 1991 and according to the recommendation of the committee, the applicant was promoted to the Super Time Scale on 22.7.1991. The applicant has already been promoted to the selection grade with effect from 1.1.1986. The applicant's claim was that he was entitled for consideration for promotion to Super Time Scale alongwith 1976 Batch. It has also been stated that adverse remarks for 1980-81 were excused vide order dated 30.4.1990 and the adverse remarks for 1982-83 were excused vide order dated 8.8.90. That is why the application was promoted to the selection grade. w.e.f. 1.1.1986. It has further been stated that the case against the retention of some of the adverse remarks which was not the expunged, the memorial submitted by the applicant against the same was still under consideration of the Government of India. The case of the applicant for promotion to the Super Time Scale was considered by the Selection Committee which met in Dec. 1988, April 1990, Jan. 1991, Feb. 1991 and he was not found fit for promotion. His case was re-reviewed by the selection Committee in May 1991 and according to its recommendation.

the applicant was promoted to the Super Time Scale on 22.7.1991. It appears that against the order dated 23.4.1991 passed by the tribunal dismissing his petition challenging the orders of the State Government denying selection grade, the applicant approached the Supreme Court of India (Civil Appeal No. 3406 of 1988) which vides its order dated 23.4.1991 and allowed the same and directed that he shall be treated in selection grade w.e.f. 1.1.1986 with all benefits of service. He shall also be considered for promotion and he will be entitled to all consequential benefits with effect from that date i.e. 1.1.1986. It is in pursuance of that order, the applicant was treated in selection grade w.e.f. 1.1.1986. It appears that Super Time Scale was given to the applicant in the year 1991. The case of the applicant was earlier rejected when the adverse remarks were not expunged, which were subsequently expunged to get the selection grade. The Super Time Scale was denied to the applicant before the Selection Committee earlier and subsequent adverse remarks to of which had already been expunged in toto. So far as the remarks for two years are concerned, the same ^{were} ~~has~~ partly expunged only on 1988-89 communicated vide letter dated 29.3.1988 and 2.9.89. When the applicant's representation is pending before the State Government, the applicant has been found fit for grant of Super Time Scale in face of that part of the adverse entry in respect of which his memorial is still pending before the Government of India. It may be that the said memorial alongwith the remaining part of the adverse remarks have been

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taken into consideration thereafter the Super Time Scale has been granted to the applicant. The selection Committee for this purpose has been mentioned, earlier met in May, 1991. The Supreme Court decision referred to above, if on that material the applicant could be granted Super Time Scale, then there appears to be no reason on that very material in his favour or against him; he could not be granted Super Time w.e.f. the due date that his next junior was granted the said scale. There appears to be no reason and there is no bar for the same and accordingly this application is allowed. The respondents are directed to grant Super Time Scale to the applicant w.e.f. the date of his next junior was granted the said scale, may be after observing the requisite formalities. The application is allowed. Let it be done within a period of three months. The application is allowed in these terms. No order is to the cost.

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Member (A)

Vice-Chairman

Lucknow Dated 22.10.1992.

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