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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Transferred Applications Nos. 120/87 and 121/87.

1. Harcharan Singh,
Gambhir Marg,
Arya Nagar, Jawalapur,
HARDWAR - 249 407.

... Applicants

2. Pushkar Narain Mehra
V/S Flat 30, Western Rly. Sky scraper,
Bombay Central
Bombay 400 008.

1) Union of India,
Through Central Government
Advocate at Bombay,
Ministry of Law,
Ayakar Bhavan,
BOMBAY - 400 020.

2) The General Manager,
Western Railway,
Churchgate,
BOMBAY - 400 020.

3. The Secretary,
Rail Bhavan,
Ministry of Railways,
NEW DELHI - 110 001.

... Respondents.

CORAM:- The Hon'ble Member(J), M.B. Mujumdar.

The Hon'ble Member(A), M.Y. Priolkar.

Appearance:-

Mr. M.S. Rammurthy,
Advocate for the
applicant.
Mr. M.I. Sethna,
Advocate for the
respondents.

JUDGMENT:-

Date: 14.9.1989.

(Per M.Y. Priolkar)

The applicant in Transferred Application No. 120/87 (original Writ Petition No. 129/82) was first appointed in ~~Non -~~ Railways on 12.3.1948 in a ~~vacant~~ gazetted post. He was appointed as Assistant Personnel Officer (Class II gazetted) in a regular vacancy from 6.4.1967 and confirmed in that post on 1.7.1974. On 6.6.1974 he was posted to look after duties of Senior Personnel Officer (Class I Senior Scale) and from 9.9.1974 he was also allowed to draw pay in the scale of Rs. 1100-1600 attached to that post. By letter dated 15.4.1977,

the applicant was, however, advised that his officiating promotion to Class I Senior Scale prior to 7.6.1976 is treated as ad-hoc. (Class I and Class II wherever mentioned in this order, are synonymous with Group A and Group B, respectively, and the scales of pay are those revised after the Third Pay Commission's Report but prior to revision under Fourth Pay Commission's recommendations).

2. The applicant states that his appointment to Senior Scale Class I post on officiating basis was after selection by ^{Departmental Promotional Committee} the (D.P.C.) of the Ministry of Railways in accordance with the procedure outlined in Home Ministry's O.M. dated 30.12.1976 (Exhibit 'F') which consolidates all the previous orders on the subject. According to the applicant, he should have been confirmed in due course against permanent vacancies in Class I junior scale in accordance with the procedure contained in the Home Ministry's O.M. dated 30.12.1976. The applicant's grievance is that though there were 40 vacancies in Class I Junior Scale on the Railways as on 1.1.1976 or onwards, no Class II Officers^s was confirmed against these vacancies during the years 1976 to 1979. It was only under Railway Board's Memorandum dated 19.6.1980 that 27 Officers including the petitioner^s were confirmed with effect from 3.3.1980 in Class I Junior Scale. The applicant states that the failure of the Railway Ministry to hold DPC meetings in time for confirmation against permanent vacancies as on 1.1.1976 or till 3.3.1980 was on the erroneous basis that the petitioner had no right to be considered for promotion/confirmation in Class I for a period of 4½ years. The applicant claims that if DPC had been held in 1976-77, he would have been confirmed in Class I junior scale from 1976-77 itself as he had been officiating in Senior Scale Class I post from 9.9.1974, and, therefore, since his case was erroneously not considered ^{on} ~~as~~ incorrect premises as aforesaid, the Railway Ministry is bound to grant the applicant his due

confirmation/promotion and other consequential benefits from the date from which he would have been promoted/confirmed but for the Railway Ministry's administrative error in not holding the DPC for 4½ years.

3. On and from 1.1.1976, Class I posts in the Personnel Department were constituted as an independent service known as Indian Railway Personnel Service (IRPS). Rule 6 of the IRPS Rules which provides for initial appointment to the Service from different sources, specifically provides for inclusion in the initial constitution of the Service, officers promoted from Class II to Class I posts in the Personnel Department of the Railways. According to the applicant, he should have, therefore, been treated as a members of IRPS on its initial constitution from 1.1.1976 but the Ministry of Railways are treating him as inducted into IRPS only from 3.3.1980, i.e. the date from which he was permanently promoted. The applicant has also the grievance that although under sub-rule(2) of Rule 6 of the IRPS Rules, the initial Constitution of the Service shall be carried out over a period not exceeding 3 years i.e. not beyond 31.12.1979, the initial Constitution has been extended improperly and unnecessarily to a period of 4½ years.

4. Rule 8 of the IRPS Rules inter alia provides that 50% of the posts in Jr. Scale Class I shall be filled in by selection on merits from Class II officers with at least 3 years of service in the Railway Ministry. Accordingly, 40 posts were reserved for promotion/confirmation of Class II officers like the petitioner as on 1.1.1976 or between 1976 and 1979. It is the applicant's case that even if the DPC finalised the absorption of Class II officers of the Personnel Department only on 3.3.1980, the officers so absorbed should have been treated as absorbed against the vacancies as on 1.1.1976 or, in any case, during the years 1976 to 1979.

5. Another grievance of the applicant is regarding his promotion to Junior Administrative grade. On 10.12.1980, the applicant submitted a representation to the Railway Board that while promoting Class I Senior Scale officers (Rs. 1100-1600) to Junior Administrative Grade (Rs. 1500-2000), ~~no one~~ who are working on the Western Railway in the Senior Scale has been considered on the ground that the said officers had not completed 8 years of service in Class I. Thereafter, by Order dated 27.2.1981, the applicant was put out to work against a Junior Administrative grade post. That order also provided that while working in the said post, the applicant's pay would be fixed in terms of Railway Board's letter dated 26.10.1979. The result of such pay fixation was that the petitioner would get only a special pay of Rs. 20/- in addition to his pay in the senior scale. This pay fixation, according to the applicant, is entirely untenable and he is entitled to be paid under the normal rules in the scale of pay applicable to the Junior Administrative post and also for seniority in that grade from 19.5.1980, i.e., when he was posted against a Junior Administrative grade post by temporarily operating it in Senior Scale.

6. As his various representations on the above grievances which were made from time to time to the respondents were all rejected, this Writ Petition was filed by the applicant before the High Court of Judicature at Bombay on 22.1.1982 and it has since been transferred to this Tribunal by the High Court's Order dated 15.1.1987.

7. The respondents have filed their written reply resisting the various claims made by the applicants. According to the respondents, Class II (Group B) officers~~s~~ are not members of the IRPS which was constituted from 1.1.1976 till they are appointed to the Service and such appointment is made

at the initial level of Junior Scale. Vacancies in Senior Scale are filled in by promotion of Junior scale officers who have ~~been~~ rendered at least 5 years service in junior scale. However, Class II (Group B) officers are also promoted to officiate in Senior Scale against long term vacancies, without being promoted to Group A. The applicant was appointed to officiate in senior scale from 7.6.1976 on the basis of recommendations by a DPC of UPSC (Union Public Service Commission).

8. The respondents also state that Group B officers notwithstanding their officiating appointment to Group A Senior Scale, remain basically Group B officers and will have to get selected for appointment to Group A service. It is only in consideration of exigencies of service that Group B officers are straightaway put to work in senior scale without being appointed to Group A and such an appointment is not covered by the ^{vis} ~~promotions~~ of the Rules. And it is only after appointment to Group A service that Group B officers are assigned position in seniority in Group A and their further promotion in Group A depends upon such seniority and merit. The IRPS Recruitment Rules do not provide for appointment of Group B officers to junior scale of the service by promotion on the basis of selection during the transition period of 4½ years. But considering that Group B officers would have to wait till the vacancies arose after the commencement of the maintenance stage, ~~a~~ ^{one} time relaxation was made to the rules in consultation with the UPSC and 40 posts were made available for the appointment of Group B officers. Since the appointment was by selection, a DPC was convened by UPSC which met on 14.2.1980 and 15.2.1980 and the recommendations were approved by the Commissioner on 3.3.1980. As per the Home Ministry's O.M. dated 30.12.1976 referred to earlier, the validity of the panel recommended by DPC commences from the date of UPSC's letter communicating approval. Accordingly, the appointment

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of the applicant was notified from 3.3.1980.

9. The respondents also contend that the service rendered by the applicant in senior scale prior to his appointment in Group A in IRPS is not recognised for purposes of reckoning his eligibility for promotion ^{to} Junior Administrative Grade. With the benefit of weightage of 5 years in seniority, the applicant becomes eligible for appointment to Junior Administrative Grade only on 3.3.1985. Due to administrative needs, officers with 8 years of service in Group A are being considered for appointment to Junior Administrative Grade, but even on this basis, the applicant would qualify for appointment to that grade only on 3.3.1983. He was in fact promoted to Junior Administrative Grade on regular basis with effect from 23.6.1983. The denial of full grade pay during the period of ad-hoc promotions to the Junior Administrative Grade is justified by the respondents on the ground that it is in keeping with the provisions of FR 35 and in order to ensure that the applicant does not have a permanent advantage vis-a-vis his seniors because the service without full Junior Administrative Grade pay is not allowed to count for the purpose of fixation of pay in the Junior Administrative Grade on regular promotion.

10. We have heard on 7.7.1989 and 18.7.1989 Mr. M.S. Ramamurthy, Learned Advocate for the applicant and Mr. M.H. Sethna, Senior Counsel for the respondents.

11. The central issue for determination by us in this case is whether the applicant is entitled to be appointed to IPRS on its constitution from 1.1.1976 or at least from 7.6.1976. Mr. Ramamurthy contended that the constitution of IRPS does not bar the promotion of Class II officers during the initial constitution, and even assuming there is such a bar, it is removed by the relaxation obtained from UPSC. His further contention was that the channel of promotion for Class II officers of the Personnel Department like the applicant, being only in IRPS, suspension of his right for being considered for promotion

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for a period of 4½ years was violative of Articles 14 and 16 of the Constitution.

12. Under Rule 3 of IRPS Recruitment Rules, 1975 (Exhibit H), the IRPS shall consist of

- (i) persons appointed to the service under Rule 6 on the commencement of the Rules, and
- (ii) persons appointed to the service under Rule 8 after such commencement.

The term " appointment " is defined to include appointment made in an officiation capacity on a regular basis.

13. Rule 6 which deals with the initial Constitution of the service, is reproduced below:-

Rule 6 - Initial Constitution of the Service-(2)

" (1) Initial appointment to the Service shall be through the following sources namely:-'

- (i) Officers, who were recruited to the erstwhile Establishment Department of the Superior Revenue Establishment of the State Railways/ Indian Railways through competitive examination conducted by the Federal Public Service Commission in the years 1945 and 1947, who are, at the time of the commencement of these rules, working in the Personnel Department on the Railways, even if they have been provided liens in other department/posts.

Provided that such of these officers who were recruited to the erstwhile Establishment Department of the Superior Revenue Establishment of the State Railways/Indian Railways, who, at the time of the commencement of these rules, have been permanently absorbed in other services/posts and are not working in the Personnel Department on the Indian Railways, shall be governed by clause(iv).

- (ii) Officers promoted from Class II to Class I posts in the Personnel Department on the railways, even if they have been provided lien in other department/posts.

- (iii) Officers, who were originally recruited for other departments, but were, later on found suitable for being retained for service in the Personnel Department only, even if they have been provided lien in other departments/posts.

- (iv) Officers belonging to all Class-I services under the Ministry of Railways (excluding the Indian Railway Medical Service), who have at the time of commencement of these rules, completed 6 years in Junior Scale (Class-I) or two years of service in the grade of Under Secretary in the Ministry of Railways and elect, on the basis of an Option, to be appointed to the Service;

(v) Officers, initially recruited as Temporary Assistant Officers (unclassified) by the Commission, who have at the time of commencement of these rules, completed 6 years of service as temporary officers and elect, on the basis of an option to be appointed to the service.

Provided that an officer, who is eligible to exercise an option under clause(iv) or clause(v), fails to do so, shall not be given another opportunity to exercise an option on any future occasion.

(2) A selection committee, presided over by the Chairman or a Member of the Commission and consisting of three representatives of the Government shall determine the suitability of the eligible officers for appointment to the various grades and prepare a list in the order of merit in each grade for the initial constitution of the service, during the period of transition, the duration of which shall not exceed 3 years. The Commission shall forward the recommendation of the Committee to the Government who shall make the appointment to the Service.

NOTE :-

The Departmental candidates who are not absorbed in the initial constitution of the Service, shall continue to hold the posts to which they were appointed regularly and for other purpose, these posts shall be deemed to have been excluded from the Service for so long as they continue to hold them.

(3) Notwithstanding anything contained in this rule, the departmental candidates referred to in sub-rule (1) may be considered by the Government for appointment to the service at the maintenance stage or stage in consultation with the Commission, and suitability of such candidates for appointment to various grades of the Service shall be determined by a Selection Committee referred to above.

Explanation:

The absence of a Member other than the Chairman or Member of the Commission shall not invalidate the decision taken by the Selection Committee. "

14. Rule 8 which deals with the maintenance phase is as follows:-

Rule 8 - Future Maintenance of the Service.

"(1) After the initial constitution of the Service has been completed, Vacancies shall be filled in the manner as hereafter provided:-

(a) Senior Administrative Grade - Chief Personnel Officer/Additional Chief Personnel Officer - all vacancies of Chief Personnel Officers/Additional Chief Personnel Officers shall be filled by selection on merit from the officers in the Junior Administrative Grade of the Service with at least 5 years' service in the grade.

(b) Junior Administrative Grade - Deputy Chief Personnel Officer/Senior Divisional Personnel Officer, - all vacancies in the Junior Administrative grades of the service shall be filled by selection on merit from officers in the senior scale of this service with at least 5 years' service in the grade.

(c) Senior Scale - Senior Personnel Officer/ Divisional Personnel Officer:-

(i) 50 per cent of the vacancies in the senior scale shall be filled by promotion in the order of seniority subject to rejection of the unfit from the junior scale (Class-I) Officers of this service with at least five years' service in the scale.

(ii) 50 per cent of the vacancies in the senior scale shall be filled by transfer of officers belonging to Class-I Services under the Ministry of Railways (excluding the Indian Railway Medical Service) who have completed six years of service in the junior scale ~~or~~ ^{and} two years service in the grade of Under Secretary in the Ministry of Railways and elect, on the basis of the option to be appointed to the Service.

Provided that an officer who is eligible to exercise an option under these rules fails to do so at the first available opportunity shall not be given another opportunity to exercise an option at any future occasion.

(d) Juniors Scale (Class I) - Assistant Personnel Officer:-

(i) 50 per cent of the vacancies in the Junior scale shall be filled by direct recruitment through an open competitive examination held by the Commission in the manner prescribed in Schedule-II.

(ii) 50 per cent of the vacancies in the Junior scale shall be filled by selection on merit from Class-II Officers with at least 3 years service in the grade ~~in~~ ^{of} the Railway Ministry ~~or~~ ^{and} the Personnel Department ~~in~~ ^{of} the Railways.

(2) In case any of the methods of recruitment referred to above fails, the vacancies shall be filled by transfer/Deputation of suitable officers of the Class-I service under the Ministry of Railways (excluding the Indian Railway Medical Service). The period of deputation shall not ordinarily exceed three years."

15. It is clear from these Rules that IRPS which came into effect from 1.1.1976 was constituted in two stages, namely

(i) initial appointment and (ii) maintenance. A transition period of 3 years, which was later extended by 1½ years, i.e.

till 30.6.1980 was provided, before the maintenance stage

started. The IRPS Recruitment Rules do not provide for appointment of Group B officers to Junior Scale of the Service by promotion on the basis of selection during the transition period. The intention of Rule 6(ii) read with the Explanation to Rule 3 seems to be fairly clear that only officers already appointed in a substantive or in an officiating capacity on a regular basis by promotion from Class II to Class I posts in the Personnel Department ~~on~~ the Railways were eligible for consideration for initial appointment to the IRPS under that Rule. Although the applicant was posted to officiate in the Class I Senior Scale with effect from 9.9.1974 and was also allowed to draw pay in the scale of Rs. 1100-1600 attached to that post, he was informed by General Manager's letter dated 15.4.1977 that his 7.6.1976 was treated as ad-hoc. The Office Order dated officiating promotion to Senior Scale prior to 18.6.1977 issued by the General Manager, Western Railway shows the dates on which various Assistant Personnel Officers (Class II) who were earlier promoted to officiate in Senior Scale or posted to look after the duties of Senior Scale posts and allowed to draw officiating pay in Senior Scale under normal rules or granted Rs. 150/- p.m. in addition to their pay in Class II, were posted to officiate in Senior Scale as regular measure. This order shows that the applicant who is at Sr. No. 3 therein, was allowed to draw officiating pay from 9.9.1974 but is regularly promoted to Senior Scale with effect from 7.6.1976. Thus, since the applicant was only an ad-hoc promotee to Class II as on 1.1.1976, he was not entitled under the provisions of Rule 6(ii) of IRPS to be considered for induction in IRPS ~~on~~ its initial constitution. Nor could he be considered for absorption in IRPS from the date of his officiating appointment on regular basis in a Senior Scale Class I post, i.e. on 7.6.1976, for the reasons that such

promotees could be appointed under Rule 8 of IRPS only during the maintenance phase of IRPS which commenced on 1.7.1980. Shri Ramamurthy's contention that the applicant was entitled to appointment in IRPS at least from 7.6.1976 has, therefore, to be rejected.

16. Mr. Ramamurthy's next argument, for which he relied heavily on Railway Ministry's letter dated 24.6.1978 to the Union Public Service Commission was that even assuming there is a bar on appointment of promotee Class II officers to IRPS during its initial constitution phase, it is removed by relaxation in the rules obtained from UPSC. In the initial Constitution of IRPS there were 80 Junior Scale Class I posts, against which 30 temporary officers were absorbed in terms of clause 6(i)(v) of IRPS Recruitment Rules. The balance 50 which were maintenance vacancies were to be filled in terms of Rule 8(d) of Recruitment Rules, i.e. 50% by direct recruitment and 50% by selection on merit from Class II officers with at least 3 years service in the grade. Thus Class II officers were entitled to get only 25 posts out of 80 posts in Junior Scale included in the initial constitution of IRPS. The request made to the UPSC in Railway Ministry's letter dated 24.6.1978 was that "the Commission may, as a special case, agree for the one time relaxation in terms of Rule 13 of the Recruitment Rules to provide for 40 posts out of the balance 50 to ~~the~~ Class II officers only for the maintenance vacancies at the initial constitution stage. This will not be perpetuated and the future maintenance vacancies will be filled as indicated in the Recruitment Rules."

17. Mr. M.I. Sethna, the learned Senior Counsel for the respondents, stated that the request to UPSC was not for relaxation of the eligibility condition but merely to increase to 40 from 25 the number of vacancies to be filled up by promotion of Class II officers. He also produced for our

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perusal the reply dated 9.2.1979 from UPSC communicating their approval in the following terms:-

" The Commission, in the circumstances explained by the Ministry, have agreed to a relaxation of the recruitment rules in regard to the appointment of officers to Class I (Junior Scale) of the Indian Railway Personnel Service to the extent that out of 80 posts available for being filled in the grade, 40 posts may be allocated to Class II officers for being filled by promotion."

In the light of this reply, we have to negative Shri Ramamurthy's contention that the relaxation obtained from the Union Public Service Commission supports the applicant's case that he is entitled for promotion to IRPS from 1.1.1976 or at least from 7.6.1976. Shri Ramamurthy had also cited Calcutta High Court's judgment in Rabidra Nath Mukherji v. S.R. Das and another (1980 SLJ 67) in which it was held that in respect of the provisions of Article 320 of the Constitution, an appointment without consultation with the Public Service Commission does not make the appointment invalid or void, to support his contention that the applicant should be deemed to be officiating on a regular basis in a Senior Scale Class I post from 9.9.1974. In our opinion, however, this judgment does not help the applicant as it is not the respondent's case that the applicant's appointment prior to 7.6.1976 is treated as ad-hoc, only for the reason that no approval of the Union Public Service Commission had been obtained for his appointment prior to that date.

13. Shri Ramamurthy's further contention was that since the applicant's channel of promotion was only in the Personnel Department, non-consideration of the applicant for promotion during the transition phase of 4½ years amounted to suspension of his right of consideration for promotion during this period and is violative of Articles 14 and 16 of the Constitution. The provision of a transition phase is a normal

feature in all newly constituted services for drawing officers from different sources at the stage of initial constitution. The ^{intention} ~~inter alia~~ is evidently to screen and induct the best available talent, for which statutory rules are framed. In the present case, in terms of Rule 6 of IRPS Recruitment Rules, 1975, officers belonging to Group A service, who had on 1.1.76 completed 6 years of service in Group A Junior Scale or 2 years of service in the grade of Under Secretary in the Ministry of Railways and officers initially recruited as Temporary Assistant Officers, who had completed 6 years of service as temporary officers on 1.1.1976 were only eligible to opt for being considered for initial appointment to the IRPS. Therefore, barring the Temporary Assistant Officers, the others who were considered for such appointment to Senior Scale were all regular Group A officers on 1.1.1976 which the applicant was not a regular Group A officer on 1.1.1976. In these circumstances, it must be held that the Railway administration has acted in accordance with the provisions of the statutory rules and the contention that the absence of provision in the IRPS Recruitment Rules 1975 for promotion of serving Group B officers during the period of transition is violative of Articles 14 and 16 of the Constitution has to be rejected.

19. Shri Ramamurthy also brought to our notice the Supreme Court judgment in A. Janardhana v. Union of India and Others (AIR 1983 SC 769). In para 23 of that judgment, the Court has observed that unless it is made clear that the temporary posts are for a certain duration or the appointments to temporary posts are of an ad-hoc nature till such time as recruitment according to rules is made, the recruitment of temporary hands is legal and valid. The Court has also observed that there is no universal rule, either that a cadre cannot consist of both permanent and temporary employees or that it must consist of both and that, it is primarily a matter of rules and regulations

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governing the particular service in relaxation to which the question regarding the composition of a cadre arises. In our view, this judgment also does not help the applicant since we have already held earlier that the Railway administration has acted in accordance with the provisions of the statutory IRPS Recruitment Rules and the only relaxation made in the rules by them, with the approval of the Union Public Service Commission, was to increase to 40 from 25 the number of vacancies to be filled up by promotion of Class II eligible officers. Evidently, the Government is the best judge as to what extent and for what purpose their discretionary powers of relaxing the rules can be exercised in the exigencies of service.

20. As regards the applicant's other grievance of delayed promotion and seniority in Junior Administrative grade, Shri Ramamurthy cited the judgment of the Principal Bench of the Central Administrative Tribunal in S.C. Jain v. Union of India [ATR 1986(2) C.A.T. 346] in which it has been held that the entire period of ad-hoc officiation followed by regular appointment should count for purposes of seniority. The facts and circumstance of that case are, however, easily distinguishable. The applicant's appointment in that case was on an ad-hoc basis because the Recruitment Rules for the concerned post had not been finalised. When the Recruitment Rules were finalised on 30.12.1978, he was regularised with effect from that day itself. Obviously, the Recruitment Rules did provide for his being considered for such appointment. In the present case, however, the Recruitment Rules specifically provided that ad-hoc promotees like the applicant before us could be appointed to IRPS only in the maintenance phase, which commenced only on 1.7.1980.

21: Another judgment cited by Shri Ramamurthy to press his claim for earlier regularisation of the applicant was that of the Central Administrative Tribunal, New Bombay Bench in S.C. Jain v. Union of India [1986

R.S. Gramopadhye v. Union of India [(1988) 8 ATC 804] wherein it has been held that employees cannot be deprived of their rights of being considered for promotion on account of the administrative delays. But here again, unlike in that case, the right of the applicant before us under the statutory Recruitment Rules for being considered for promotion to IRPS arose only from commencement of the maintenance phase, i.e. 1.7.1980.

22. Regarding the applicant's claim for being paid in the pay scale of the Junior Administrative grade ~~though~~ under the ^{while performing} normal rules, the duties of a post in that grade though not regularly promoted to that grade, we have held in our recent judgment dated 19.6.1989 in two cases (O.A. 176/86 and 184/87) filed on behalf of Class II officers of the Western Railway that limiting the pay of such officers as do not have even 3 years of regular service in Class II but are asked to look after the duties of Class I Senior Scale posts, to their pay in the existing scale plus charge allowance is a reasonable restriction based on a rational classification and cannot be considered as arbitrary or discriminatory. We had relied in that judgment on Supreme Court's observation in Randhir Singh v. Union of India (AIR 1982 SC 629) that a classification based ~~on~~ higher qualifications, which may be either academic qualification or experience, based on length of service, could be reasonably sustained. On the same reasoning, we have to reject the present applicant's similar claim based ^{on} equal pay for equal work as, undoubtedly, the length of service in a particular scale is an important element in determining the remuneration of an employee.

23. On the basis of the foregoing discussion, we do not see any merit in any of the contentions made in this application. ^{The applicant's} Since ~~this~~ promotion to IRPS from 3.3.1980 before commencement of the maintenance phase was itself in relaxation of the IRPS recruitment rules, ordering retrospective promotion from an

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earlier date would have involved one more relaxation, namely, deviation from the instructions contained in Home Ministry's O.M. dated 30.12.1976 to the effect that the validity of the panel recommended by the DPC would commence from the date of the Union Public Service Commission's letter communicating approval to the panel. As discussed earlier, we see no compelling reason on the facts and circumstances of this case, why this further relaxation should be ordered in favour of the applicant. The application is, accordingly, dismissed. Parties will bear their respective costs.

24. In Transferred Application No. 121/87 (Original Writ Petition No. 130/82), essentially the same issues have been raised and similar reliefs prayed for, on more or less identical facts. Mr. Ramamurthy had requested that the decision in the earlier case may be applied to this case also. This application (Tr. Appln. No. 121/87) is also, accordingly, dismissed for the same reasons as discussed earlier, with no order as to costs.