

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH : PATNA

Date of Order:- <sup>AB</sup> 19.6.2007

Registration No. OA-687 of 2005

C O R A M

Hon'ble Km Sadhna Srivastava, Member (J)

Hon'ble Shri Amit Kushari, Member (A)

Narayan Murti

...Applicant

-By Shri Gautam Bose, Advocate

Versus

The Union of India & Others

... Respondents

-By 1. Shri K.N.Jha, counsel for Union of India

2. Shri Shekhar Singh, counsel for State of Bihar

O R D E R

Amit Kushari, Member (A):- Heard Shri Gautam Bose, counsel for applicant, Shri K.N.Jha, learned counsel for the Union of India and Shri Shekhar Singh, learned counsel for the State of Bihar. All the pleadings have also been carefully perused.

2. The case of the applicant is that he joined the Bihar Civil Service on 7.5.1973 as a Sub-Dy. Collector <sup>1</sup> ~~on 1.4.1976~~. He was promoted as Dy. Collector on 1.4.76. He became eligible for promotion to the IAS in the year 2001 and was accordingly promoted to the IAS and his year of allotment was fixed as 1993.. He had put in 27 years of service in the Bihar Civil Service before being promoted to the IAS (i.e. 7.5.1973 to January, 2001) and therefore according to the formula for fixation of year of allotment in

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the IAS he should have been given a weightage of 9 years and accordingly his year of allotment should have been 1991. Shri Shekhar Singh and Shri K.N.Jha pointed out that this contention of the applicant was misconceived. According to Rule 3(3) of IAS (Regulation of Seniority) Rules, 1987 his entire period of service in the State Civil Service is not to be counted. His service is to be counted from 1.4.1976 – the date on which he became a Dy. Collector. Therefore he has rendered only 24 years of effective service in SCS and not 27 years. The three years of service rendered by him as Sub-Dy. Collector is not to be reckoned for calculating his year of allotment. Shri Shekhar Singh pointed out further that in the year 1998 an amendment was made in the IAS (Regulation of Seniority) Rules and it has been specified in the amendment that the year of allotment will be determined with reference to the officer's continuous service rendered in the State Civil Service not below the rank of Dy. Collector and equivalent. This amendment has debarred the applicant from taking the advantage of three years' service rendered by him as Sub-Dy. Collector. Since the promotion of the applicant was considered in the year 2001 and the amendment was made in the IAS (Regulation of Seniority) Rules made in 1998 – the amendment could not have been ignored. Shri Gautam Bose argued that the amendment ~~was~~ made in 1998 could not have had retrospective effect and the service rendered by the applicant from 1973 to 1976 could not be deleted arbitrarily. Shri Bose argued that amendments in Rules cannot have retrospective effect and this is a settled principle of law. Shri K.N.Jha and Shri Shekhar Singh rebutted this argument of Shri Gautam Bose and said that the promotion was not considered in the year 1976. It was considered in the year 2001. Since the amendment came into effect in the year 1998 there was no question of any retrospective effect and the amendment could not




have been ignored while calculating the length of service of the applicant in the year 2001.

3. Shri Gautam Bose pointed out ~~that~~ a few other alleged irregularities in the process of selection in IAS. He pointed out that one Kumar Anand was junior to the applicant in the State Civil Service (the applicant's seniority was at Sl.No.961 whereas the Sl.No. Of Shri Kumar Anand was at 999). However, in the IAS selection list Kumar Anand has been placed 8 steps ahead of the applicant. Shri Shekhar Singh and Shri K.N.Jha explained that it has been made abundantly clear in the written statement filed by the Union of India and the State of Bihar that the seniority of an officer in the State Civil Service has no direct relation with his seniority in the IAS cadre. The seniority of an Officer in IAS cadre is determined by his position in the selection list as prepared by the select committee and as approved by the Union Public Service Commission. In the select list which was forwarded to the Government by the UPSC Shri Kumar Anand was placed at Sl.No.2 and Shri Narain Murti was placed at Sl.No.10. This could have been due to better confidential reports of Shri Kumar Anand and there was no irregularity in this matter.

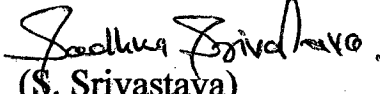
4. We have carefully considered the arguments of all the three learned counsels. It is quite apparent that the respondents have calculated the year of allotment of the applicant strictly on the formula that has been given in the IAS seniority Rules, 1987 as amended in the year 1998. The respondents have not made any mistake in the calculation and the year of allotment of the applicant appears to have been fixed correctly at 1993. The Respondents were surely not expected to overlook the formula prescribed in the IAS Pay Rules.



As a result this OA is dismissed. No costs.

  
(Amit Kushari)  
Member (A)

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(S. Srivastava)  
Member (J)