

(42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.1069/91

decided on : 13-3-1995

Between

I. Venkateswarlu : Applicant

and

1. The Govt. of India, rep.
by its Secretary
Min. of Home Affairs
Central Secretariat
South Block, New Delhi

2. The Govt. of Andhra Pradesh
rep. by its Chief Secretary
Secretariat, Hyderabad

3. Sri V. Nagireddy
Director of Horticulture
Hyderabad

4. Sri J. Ramon Peter
Jt. Collector, Srikakulam

5. Sri M. Sambasiva Rao
Jt. Collector, Nellore

6. Sri Anil Chandra Puneta
Spl. Collector
Telugu Ganga Project
Nellore

7. Sri Shailendra Kumar Joshi
Under Secretary
Ganga Project
Min. of Environment & Forests
New Delhi

8. Sri A.R. Sukumar
Joint Collector
Prakasam at Ongole

9. Smt. Meelam Sawhney
P.D., DRDA, Nizamabad

10. Sri Ajay Mishra
Additional Commissioner (General)
Municipal Corporation of Hyderabad
Hyderabad

11. Sri A. Vidya Sagar
Joint Collector
Kurnool

...1(a).

1(a)

12. Dr. Premchand
Joint Collector
Warangal

13. Sri A.P. Sawhney
Joint Collector
Nizamabad

:: Respondents

Counsel for the applicant : B. Bhaskar Rao, Advocate

Counsel for the respondent : N.R. Devaraj, SC for
Central Govt.

Counsel for the respondents : I.V. Radhakrishnamurthy, SC
2 to 13 for AP Govt.

CORAM

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. R. RANGARAJAN, MEMBER(ADMN.)

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri B. Bhaskar Rao, learned counsel for the applicant, Sri N.R. Devaraj, learned counsel for R-1 and R-2 and Sri I.V. Radhakrishnamurthy, SC for Andhra Pradesh (R-3 to R-10).

2. The applicant joined service as Deputy Collector in AP State on 21-6-1977 (There was a typographical mistake that the order of joining was referred to as 1987 in para 6 of the DA). He was at serial No.11 in the Select list of 1987 for promotion to the post of IAS from AP State Service Government.

3. The IAS (Regulation of Seniority) Rules 1987 had come into effect on 6-11-1987. The IAS (Regulation of Seniority) the first amendment rules 1988 had become effective from 18-1-1988. The relevant rules in regard to year of allotment of a promotee officer to IAS as per 1987 Seniority Rules as amended in 1988 are as under :

- (a) For the service rendered by him in the State Civil Service upto twelve years, in the rank not below that of a Deputy Collector or equivalent, he shall be given a weightage of four years towards fixation of the year of allotment;
- (b) he shall also be given a weightage of one year for every completed three years of service beyond the period of twelve years, referred to in subclause (a), subject to a maximum weightage of five years. In this calculation, fractions are to be ignored;
- (c) the weightage mentioned in sub-clause (b), shall be calculated with effect from the year in which the officer is appointed to the service;

Provided that he shall not be assigned a year of allotment earlier than the year of allotment assigned

to an officer senior to him in that Select List or appointed to the service on the basis of an earlier Select List."

4. In exercise of powers under Rule 9 of IAS Cadre Rules, GORT No.11435, GAD (Special A) dated 2-5-1988 was issued appointing the applicant to officiate in Senior Time Scale IAS, on temporary basis and accordingly the applicant was posted as Joint Collector, Srikakulam. He took charge of the said post on 5-5-1988. It is stated for the respondents that consequent on the demise of Sri K.K. Moinuddin, IAS promotee Officer on 25-10-1988, vacancy had arisen in State Civil Service Quota and the applicant who was next in the Select List was recommended to the Government of India to the appointment as IAS. Thereupon the Government of India issued notification dated 16-12-1988 app appointment to IAS.

5. While it is urged for the applicant that as his name was included in the select list, even before 6-11-1987, the date on which the seniority rules of 1987 had come into effect, his case for year of allotment has to be considered in accordance with IAS Regulations of seniority rules, 1954. It is stated for the respondents that even the select list was approved on 23-4-1988 that is after 18-1-1988, the date of first amendment of rules, and as the appointment was on 16-12-1988, 1987 rules as amended by the first amendment are applicable for consideration of the year of allotment of the applicant and accordingly four years weightage was given. As such, 1984 was assigned as the year of allotment to the applicant.

6. ^{the} Thus, point for consideration is as to whether the date of inclusion in the select list or the date of appointment is the criterion for consideration as to whether the pre-amended or amended rules are applicable in accordance with ^{existing} ~~accordance~~ with

X*

the year of allotment to IAS promotee officers when the inclusion in the select list was prior to amendment while the approval of the list and appointment are subsequent to the amendment.

7. The seniority has to be assigned after one becomes a member of the service. The vacancy in which the applicant was promoted to IAS has arisen only on 25-10-1988 and the applicant was appointed to the IAS on 16-12-1988. Thus, even the vacany for which he was appointed had arisen only subsequent to the amendment.

8. Further, Clause-C of the relevant rules referred to supra states that the weightage mentioned in sub-clause-b shall be calculated with effect from the year in which the officer is appointed to the service. Thus, the year of appointment is the criterion for the weightage to be given as per clause-b. Hence, it can be stated that even as per clause-a, the weightage had to be given on the basis of year of appointment.

9. Thus, the amended rules indicate that the year of appointment is the criterion for assigning year of allotment. One cannot claim seniority unless he becomes a member of service. As such the seniority rules which are extant as on the date of appointment have to be applied for assigning the year of allotment. We held to that effect in OA.347/92 on the file of this Bench. The applicant therein who is a non-SCS candidate was selected to the IAS. The initiation for selection for IAS in regard to him has taken place prior to amendment while the list in which his name was included was approved subsequent to amendment. The amended rule in that case had come into effect from 3-2-89. For the reasons stated in the order

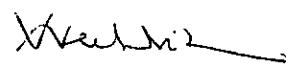
(67)

dated 16-2-1995 in OA347/92, contentions for the respondents that the amended rule is applicable for assigning year of allotment to the applicant has to be ~~upgraded~~ ^{accepted}.

10. Hence, this OA fails and accordingly it is dismissed.
No costs. /



(R. Rangarajan)
Member (Admn)



(V. Neeladri Rao)
Vice Chairman

Dated : March 13, 95
Dictated in Open Court



Deputy Registrar (J) CC

To

1. The Secretary, Govt. of India,
Ministry of Home Affairs, Central Secretariat,
South Block, New Delhi.
- sk
2. The Chief Secretary, Govt. of A.P. Secretariat, Hyderabad.
3. One copy to Mr. B. Bhaskar Rao, Advocate, CAT.Hyd.
4. One copy to Mr. N. R. Devraj, Sr. CGSC. CAT. Hyd.
5. One copy to Mr. I. V. Radhakrishna Murthy, Spl. Counsel for
A.P. Govt. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

pvm



Avinash
22/3/95