

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.809/92

dated : 5-4-1995

C.S. Naidu

vs.

Union of India, rep. by
its Secretary
Dept. of Personnel & Training
Min. of Personnel, PG & Pensions
New Delhi

2. State of Andhra Pradesh, rep. by
the Chief Secretary to the Govt. of AP
General Admn. Dept., Sectt.
Hyderabad : Respondents

Counsel for the applicant : G. Raghuram
Advocate

Counsel for the respondent-1 : N.R. Devaraj, SC for
Central Govt.

Counsel for the respondent--2 : I.V. R.K. Murthy, SC for
AP State 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, VC)

Heard Sri G. Raghu Ram, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for R-1; and Sri I.V.R.K. Murthy, learned counsel for R-2.

2. The applicant joined service as Deputy Superintendent of Police in Andhra Pradesh in September, 1974. He was included in the Select List for promotion for IPS Officers from AP State, in December, 1986. He was appointed to senior post on 25-2-1987 when he was again posted as Principal of the Training School on 16-6-1987. The applicant protested by alleging that as he was already included in the Select List he cannot be transferred to any post which is not a senior post and then by order dated 15-7-1987 the applicant was appointed as SP, CB CID and he joined that post on 1-8-1987. When the applicant could not get appointment on the basis of his inclusion in the Select list of 1986 seniority, his case was again considered for promotion and his name was again included in the Select List of December, 1987. The applicant was promoted and appointed for IPS on 23-12-1988.

3. It is stated for the applicant that when he noticed in the half-year list on 1-1-1992 that he was assigned 1984 as year of allotment, he made a representation that as per the pre-amended rules, 1978 should be assigned as year of allotment. When that request was not acceded to, this OA was filed praying for a direction to the respondents to assign 1978 as year of allotment.

4. The Indian Police Service (Regulation of Seniority) Rules, 1988 (for short IPS Seniority Rules, 1988) was published in the Gazette on 27-7-1978 and thus ^{they} had come into effect from that date. Rule 3(3) of IPS Seniority Rules, 1988, which is relevant reads as under :

*3. Assignment of year of allotment

3.(3) The year of allotment of an officer appointed to the service after the commencement of these rules shall be as follows :

(i) the year of allotment of a direct recruit officer shall be the year following the year in which the competitive examination was held;

Provided that, in the case of exempted probationers as defined in clause (ee) of rule 2 of the IPS (Probation) Rules, 1954, and direct recruit officers, who are permitted to joint probationary training under sub-rule (1) of rule 5 of the IPS (Probation) Rules, 1954, with the direct recruit officers of a subsequent year of allotment, they shall be assigned that sub - sequent year as the year of allotment.

(ii) The year of allotment of a promotee officer shall be determined in the following manner :

(a) For the service rendered by him in the State Police Service upto twelve years, in the rank not below that of a Deputy Superintendent of Police 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 sub-clause (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."

5. It is manifest from the above that IPS Seniority Rules, 1988 are applicable to those who are appointed subsequent to 27-7-1988, the date on which the above rules have come into force. There is no ambiguity for Rule 3(3) makes it clear that a year of allotment of a ~~necessary~~ appointee to the service after the commencement of those rules shall be as referred to under Rule 3. The service is defined as Indian Police Service as per Rule 2(1) of the Seniority Rules, 1988. As the appointment of the applicant to IPS was on 23-10-1988 and thus his appointment to the service referred to in Rule 3(3) is on 23-10-88, ~~and hence~~ Rule 3(3)(ii) is applicable for assignment of

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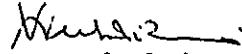
year of allotment to the applicant. As the applicant completed only 14 years of service in the cadre of DSP and the higher post, held by him, he was given weightage of 4 years and thus 1984 was assigned as year of allotment. It is in accordance with Rule 3(3)(ii)(a) of Indian Police Service (Regulation of Seniority) Rules, 1988.

6. As such the contention for the applicant that his name was included in the Select List prior to 27-7-1988, the unamended rule is applicable has to be negatived. As such there is no need to consider as to whether the year of allotment of last Direct Recruit who was holding the senior post by 15-6-1987 ^{or} was the date the select list was prepared in December, 1987 need not be considered for disposal of this OA. As such we are not advertizing to the same.

7. Before concluding it has to be stated that the plea that 1-5-1983 the date on which the applicant joined as Additional SP has to be taken into account for assigning year of allotment is not pressed. And rightly so in view of the judgement of the Apex Court in Syed Khalid Rizvi vs Union of India (1993(1) SLR 89).

8. In the result the OA is dismissed. No costs.


(R. Rangarajan)
Member(Admn.)


(V. Neeladri Rao)
Vice Chairman

Dated : April 5, 95
Dictated in Open Court


Deputy Registrar (J)CC

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To

1. The Secretary, Dept.of Personnel and Training, Ministry of Personnel and PG & Pensions, Union of India, New Delhi.
2. The Chief Secretary to the Govt.of A.P. General Admn.Dept. Secretariat, Hyderabad. State of A.P.
3. One copy to Mr.G.Raghuram, Advocate, 1-10-13, Ashoknagar, Hyd.
4. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
5. One copy to Mr.I.V.Radhakrishna Murthy, ~~Adv.~~ Counsel for A.P. Govt. CAT.Hyd.
6. One copy to Library, CAT.Hyd.
8. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE- CHAIRMAN

AND

THE HON'BLE MR. R. RANGARAJAN: M(ADMN)

DATED - 5-4-1995.

ORDER/JUDGMENT:

M. A. / R. A. / C. A. No.

O. A. No. 809/92 *in*

T. A. No. (W. P.)

Admitted and Interim directions issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No. order as to costs.

