



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO. 449 of 1987

DATE OF JUDGMENT: 26-6-1991

BETWEEN:

Mr. K. Umapathy

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Applicant

AND

1. Union of India, represented by
its Secretary,
Ministry of Personnel Training,
New Delhi.

2. The State of Andhra Pradesh,
represented by its Chief
Secretary,
Govt. of A.P.,
Secretariat,
Hyderabad.

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Respondents

COUNSEL FOR THE APPLICANT: Mr. V. Jogayya Sarma

COUNSEL FOR THE RESPONDENTS: Mr. N. R. Devaraj, Adml. CGSC

Mr. V. R. Reddy, Advocate General

Mr. D. Panduranga Reddy, Spl.
Counsel for the State of A.P.

2. According to the applicant, one Shri Kumaraswamy Reddy was recruited as Deputy Collector by direct recruitment through Andhra Service Commission in 1956 and he was included in the select list in 1967 for promotion to IAS. He was appointed to the senior post of District Revenue Officer on 30.6.1968. He was continuously officiating in a senior post. Subsequently, on formal appointment to the IAS he was assigned 1972 as the year of allotment. However, Shri Kumaraswamy Reddy claimed that his year of allotment should be given as 1963 against 1972. He made a representation and it was turned down by the Government. Thereupon he filed Writ Petition No.3586 of 1979 for issue of a mandamus compelling the respondents for inclusion in the 1963 seniority list and determine his seniority accordingly and for other consequential reliefs. The writ petition was allowed by the High Court of Andhra Pradesh and subsequently the A.P. Government carried the matter in appeal to the Supreme Court and the Supreme Court also confirmed the same and thereafter Shri Kumaraswamy Reddy who is much junior to the applicant herein has got the year of allotment as 1963. Therefore, the applicant claims that his year of allotment should be fixed as 1960 as he is senior most man to Shri Kumaraswamy Reddy. The applicant made a representation on 15.5.1986 and the same was turned down by the Government. So, he filed this application for grant of his year of allotment as 1960 with consequential benefits as stated above.

list in April 1962 for promotion to the IAS. For a long time, the list did not move and in the meanwhile the select list was being reviewed and revised from time to time and the applicant continued to find a place in the list with his original seniority intact. Ultimately, in March 1965 i.e., after a lapse of almost 3 years, the applicant was appointed by the State Government under the substantive part of Regulation 8 of the I.A.S. (Appointment by Promotion) Regulations, 1955 to officiate in a senior post, borne on I.A.S. cadre, or an equivalent post thereto, vide G.O.Rt.No.364, dated 2.3.1965 and G.O.Rt.No.1330, dated 2.8.1965 of the Government of Andhra Pradesh. Eversince, the applicant continued to officiate in senior posts borne on the IAS cadre, or posts declared equivalent thereto, without any break, reversion or without being on a purely temporary or local arrangement basis, till he was appointed to the IAS on 17.12.69 with effect from 15.11.1969 vide Notification dated 17.12.1969. He held the posts of - Special Officer, Procurement, Office of the Registrar of Cooperative Societies, Hyderabad from 8.3.1965 to 20.8.1965; Executive Officer, Tirumala Tirupathi Devasthanams, and Tirupati, from 31.8.1965 to 12.2.1969; District Revenue Officer, East Godavari District, Kakinada from 22.2.69 to 29.5.1970. Thereafter, his year of allotment was incorrectly fixed as 1965. The applicant claims his year of allotment as 1960.

allotment on account of his continuous officiation in the cadre post whereas the petitioner never officiated in the cadre post. So, he is not entitled to get the benefits given to Shri Kumaraswamy Reddy.

6. The question of limitation was fully discussed in O.A.No.446 of 1987 and held that there is no limitation in filing the O.A., The facts of this O.A., are similar to the facts in O.A.No.446 of 1987 and the facts in the Judgment in O.A.No.446 of 1987 is applicable to this petition to decide the question of limitation in this case.

7. Insofar as the seniority of Shri Kumaraswamy Reddy is concerned, the petitioner herein also held senior posts viz., Special Officer, Procurement, Office of the Registrar of Cooperative Societies, Hyderabad from 8.3.1965 to 20.8.1965; Executive Officer, Tirumala Tirupathi Devasthanams, Tirupati from 31.8.1965 to 12.2.1969; District Revenue Officer, East Godavari District, Kakinada from 22.2.1969 to 27.5.1970. He held these posts continuously without any break. Moreover, their lordships while allowing the writ petition filed by Shri Kumaraswamy Reddy, gave a direction that seniority of seniors to Shri Kumaraswamy Reddy must also be considered on par with Shri Kumaraswamy Reddy. Shri Kumaraswamy Reddy was given 1963 as the year of allotment though he was not completed 8 years of service by that time. The

3. The respondents filed a counter with the same allegations to that of the counter filed in O.A.No.446 of 1987. The applicant also filed a reply affidavit to the counter affidavit and the contents of the reply affidavit of the applicant are similar to that of the facts mentioned in the ^{reply} affidavit filed in O.A.No.446 of 1987.

4. The learned counsel for the applicant, Shri V. Jogayya Sarma; learned Advocate General, Shri V.R.Reddy; learned Special Counsel for the State of Andhra Pradesh, Shri D.Panduranga Reddy; and Shri N.R.Devaraj, learned Additional Standing Counsel for the Respondent No.1/ Central Government, argued the matter.

5. The main contention of the respondents is that the applicant made a representation on 15.5.1986 reiterating the earlier representation made in 1977 which was rejected and that the date of initial rejection is relevant for the purpose of limitation and subsequent representation is nothing but reiteration of the earlier representation. Moreover, the case of Shri Kumaraswamy Reddy will not give a fresh cause of action to the petitioner. They also contended that Shri Kumaraswamy Reddy has officiated in the cadre post continuously and so he is entitled to get his seniority basing on his continuous officiation in that cadre post. So, Shri Kumaraswamy Reddy was given the benefit of year of

service. The question of the applicant working in the higher post does not arise. The question whether, in such a case, the arrears of pay and allowances is payable or not, has been considered by the Full Bench of this Tribunal in O.A.No.767/1989 (on the file of the Madras Bench). The Full Bench in answering the question that had arisen, held as follows:-

"We are of the view that the applicants are not entitled to enhanced pay and allowances for the period from 5-11-1976 to the date of their superannuation when they did not actually work in the post of Executive Engineer, and consequently they are also not entitled to the difference in pay and allowances between the two posts of Assistant Executive Engineer and Executive Engineer. Hence, the question of payment of arrears of pay and allowances does not arise."

Following the above decision, the applicant is entitled only for a notional fixation of his pay and on the basis of that pay he is entitled for refixation of pension from the date of filing of this application. Accordingly, we direct the respondents to fix the pay

Hon'ble High Court as well as the Hon'ble Supreme Court are much conscious about the rights of the seniors to Shri Kumaraswamy Reddy, so they gave a direction in the Judgment that seniority of the seniors to Shri Kumaraswamy Reddy also should be considered on par with Shri Kumaraswamy Reddy. This aspect also was discussed fully in the Judgment in O.A.No.446 of 1987 and the Judgment in O.A.No.446 of 1987 may be read as a part of this Judgment to appreciate various facts/contentions raised by the respondents in this case. The principles of natural justice require to show that the petitioner herein and other similarly placed are entitled to the same benefits as in the case of Shri Kumaraswamy Reddy and the claim of the petitioner for fixing his year of allotment as 1960 is a genuine claim when compared to Shri Kumaraswamy Reddy's case. So, the petitioner has claimed to assign 1960 as the year of allotment and he is entitled to the same. So, we set-aside the Memo No.1299/Spl.A/86-3, dated 9.4.1987 of the 2nd respondent communicating the decision of the Government of India in letter No.14014/27/86-AIS(I), dated 20.3.1987. We hold that the petitioner is entitled to get 1960 as the year of allotment.

8. The next question for consideration is that consequent to the above finding, the benefits that accrue to the applicant. Admittedly, the applicant had filed this application after he had retired from

of the applicant notionally on the basis of his getting the year of allotment as 1960 and pay him the arrears of revised pension from the date of filing of this application. This shall be complied with within a period of three months from the date of receipt of this order.

9. The application is accordingly allowed.
There is no order as to costs.

CERTIFIED TO BE TRUE COPY
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Date 5/7/91
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad.

To

1. The Secretary, Union of India,
Ministry of Personnel Training, New Delhi.
2. The Chief Secretary, State of A.P., Govt. of A.P.,
Secretariat, Hyderabad.
3. One copy to Mr. V. Jogayya Sarma, Advocate, CAT.Hyd.
4. One copy to Mr. N. R. Devraj, Addl. CGS.C.CAT.Hyd.
5. One copy to Mr. V. R. Reddy, Advocate General, High Court of A.P. Hyd.
6. One copy to Mr. D. Panduranga Reddy, Spl. Counsel for State of A.P.
7. One copy to Hon'ble Mr. J. Narasimha Murty, Member (J)CAT.Hyd.
8. One spare copy.

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vsn