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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 1592/93.

Dt. of Decision : 12-12-95.

N. Madan Mohan

.. Applicant.

Vs

1. The Union of India, Rep. by
the Secretary, Min.of Home Affairs,
New Delhi.
2. The State of A.P., rep. by
the Chief Secretary,
General Administration (SC.C)
Department, Hyderabad.
3. The Union Public Service Commission,
rep. by its Secretary, New Delhi.
4. Smt. A.R. Anuradha
5. Vinay Kumar Singh
6. T. Tripathi
7. N.V. Surendra Babu
8. Santosh Mehra
9. Satyanarayan
10. Dr. Batti Lal Meena
12. M. Gopal Krishna

.. respondents.

Counsel for the Applicant

: Mr. J. Venugopala Rao

Counsel for the Respondents

: Mr. N.V. Ramana, Addl. CGSC.

Mr. ~~S. Pandu Ranga Reddy~~ *S.V. Reddy Krishna Murthy*
SC for A.P.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

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O.A.NO.1592/93

Judgement

Dt: 12.12.95

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO,

VICE CHAIRMAN

The applicant who joined as Deputy Superintendent of Police in A.P.State Service on 26.1.77 was included in the select list prepared on 15.3.91 in regard to the select list of 1990-91 and the said list was approved on 9.7.91. He was appointed on 28.1.92. By referring to the Rule 3(3)(ii) of the Indian Police Service (Regulation of Seniority) Rules which was amended on 27.7.88, the applicant was given 1987 as the year of allotment. This OA was filed praying for direction to the respondents to assign 1986 as the year of allotment by taking into consideration the period ^{of Service} from 1984 from which the applicant worked in the officiating senior scale post.

3. Rule 3(3)(ii) of IPS (Regulation of Seniority) Rules which was amended on 27.7.88 makes it clear that the said amended provision is applicable in regard to all the appointments made to the IPS, ^{from that date} ~~He~~

Rule 3(3)(ii) states that 4 years weightage has to be given to the promotess who completed 12 years in the rank not below ~~that of~~ ^{that of} ~~equivalent~~ ^{equivalent} allotment, while weightage at the rate of one more year for every completed ^{four} ~~two~~ years beyond 12 years referred to earlier, subject to the maximum of weightage of ~~4~~

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five years, has to be given. As the applicant completed 15 years of service in the rank of DSP by the date of appointment to IPS in 1992, he was given 1987 as the year allotment and thus it is in accordance with the amended rule, urged the learned standing counsel for the respondents.

4. When the amended rule of 1988 specifically states that it is applicable for those who are appointed to IPS subsequent to 27.7.88, the date of the amendment, the applicant cannot rely upon a pre-amended rule. Even as per the pre-amended rule, the service in the senior scale prior to the date of inclusion in the select list, does not count for fixation of year of appointment. The applicant's name was included for the first time only in the select list of 1991.

5. It is next urged for the applicant that hardship ^{will be} caused if the period of service of the applicant in the senior scale from 1984 is not taken into consideration. The question of hardship does not arise, ^{when} as no such right is conferred on any of the promotees. It means that no promotee is entitled to claim inclusion of the period of officiating service in the senior scale prior to the date of inclusion in the select list. As this is not a case where any of the juniors of the applicant is given an earlier year of allotment, the judgement of the Apex Court in AIR

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SC 1994 (1590) (M.V.Krishna Rao V. Union of India),
does not help the applicant.

6. Ofcourse in page 9, para 21 of the reply statement of R-2 it is pleaded that while Shri A.V.Narayana (R-12 herein) figured at Sl.No.2 while the applicant figured at Sl.No.3 of the select list for 1990-91. Thereby it cannot be inferred, without perusing the original minutes, as to whether R-12 was given the grading higher than the grading given ^{to} by the applicant, for it might be even a case where both the applicant and R-12 were given the same grading; but in the seniority list that was placed before the selection committee, the name of the applicant might

Further, the interse seniority between R-12 and the applicant has no bearing in regard to the year of allotment played by the applicant herein. So, we feel that it is just and proper to allow the applicant to make a representation to R-1, if so advised, if he feels that in view of some mistake, the applicant was placed below R-12 in the select list of 1990-91.

7. It is stated that Dr. Rajwant Singh of 1985 batch worked as ASP, Cuddapah while the applicant was officiating in the senior scale post at Cuddapah and ~~arbitration~~ arbitration is given 1987 as the year of allotment while Dr. Rajwant Singh was given 1985 as the year of allotment.

Copy to:-

1. The Secretary, Ministry of Home Affairs,
New Delhi.
2. The Chief Secretary, to Government of
Andhra Pradesh, General Administration(SC.-E),
Department, Hyderabad.
3. The Secretary, Union Public Service Commission,
New Delhi.
4. One copy to Mr.J.Venugopala Rao,Advocate,CAT.Hyd.
5. One copy to Mr.N.V.Ramana,Addl.CGSC,CAT.Hyd.
6. One copy to Mr.^{J.V. Reddy}~~B. Pandu Ranga Reddy~~, Standing
Counsel for Government of A.P. CAT.Hyd.
7. One copy to Library,CAT.Hyd.
8. One spare copy.

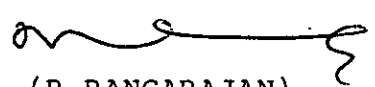
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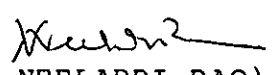
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8. But the year in which one can occupy senior scale post depends upon the vacancy available for direct recruit/promotee as the case may be. There might be even instances where one may be posted to officiate in the senior scale post, but ultimately his name might not be included in the select list. Any period of service in the senior scale post prior to the date of inclusion in the select list, cannot be taken into consideration at all even as per the pre-amended rule for determination of the year of allotment, this contention...

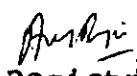
prayer for assignment of 1986 as the year of allotment is dismissed. But this order of dismissal does not debar the applicant, if so advised, to make a representation to R-1 for claiming seniority over R-12 herein and if such a representation is going to be made, the same has to be disposed of in accordance with law, ofcourse, after giving notice to R-12.

9. The OA is ordered accordingly. No costs.//


(R. RANGARAJAN)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

Dated: 12th December, 1995.
Open court dictation.


Dy. Registrar (Ju) 10-12-95

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRIAO
VICE CHAIRMAN

AND

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

DATED. 11-11-1995

ORDER/JUDGMENT

O.A.No. 1592/93 in

T.A.No.

(W.P.No.

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

