

O.A.No.87/94
MA No.100/94

Dt. of order: 4.8.94

Harish Chand Sharma : Applicant

Vs.

State of Rajasthan & Anr. : Respondents

Mr.R.N.Mathur : Counsel for applicant

Mr.K.P.Mishra : Counsel for respondent No.1

Mr.U.D.Sharma : Counsel for respondent No.2

CORAM:

Hon'ble Mr.Gopal Krishna, Member(Judl.)

Hon'ble Mr.O.P.Sharma, Member(Adm.)

PER HON'BLE MR.GOPAL KRISHNA, MEMBER(JUDL.).

Applicant Harish Chand Sharma has filed this application under Sec.19 of the Administrative Tribunals Act, 1985, praying that direction may be issued to the respondents to give proper year of allotment to the applicant in the Indian Police Service. The applicant has also prayed that the ~~validity of the~~ proviso to Rule 3(3)(b) of the IPS(Regulation of Seniority) Rules, 1988, may be set aside and quashed.


2. We have heard the learned counsel for the parties and have perused the records carefully.


3. The applicant was appointed by promotion to the Indian Police Service on 4.10.88. The applicant had by that time completed 27 years of service in the rank not below that of the Deputy Superintendent of Police or equivalent and therefore the total weightage in years in terms of Rule 3(3)(ii) of the Indian Police Service(Regulation of Seniority) Rules, 1988, ^(the Rules) was reckoned as 9 years. However, the applicant was assigned 1981 as the year of allotment to the Indian Police Service. The applicant's case is that on the basis of weightage of 9 years granted to him he should have been assigned 1979 as the year of allotment but in view of the provisions contained in Rule 3(3)(ii) of the Rules and the proviso thereto the seniority of the officers promoted, appointed earlier than the applicant was to be protected. The applicant has therefore ^{been} assigned 1981 as the year of allotment.

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There is no dispute that if the provisions of Rule 3(3)(ii) and the proviso thereto are applied, the assignment of 1981 as the year of allotment is correct. The applicant has however sought a direction that the proviso to Rule 3(3)(ii) of the Rules should be struck down as being violative of Articles 14 and 16 of the Constitution. Our attention was drawn to an authority reported in 1993(1) SLR 69 I.A.S.(S.C.S) Association, U.P. & Ors. Vs. Union of India & Ors., in which the Hon'ble Supreme Court up-held the validity of the proviso to Rule 3(3)(ii) of the IAS(Regulation of Seniority) Rules, 1987, which is analogous to Rule 3(3)(ii) of the IPS(Regulation of Seniority) Rules, 1988 and the proviso thereto. Therefore, the relief No.(ii) claimed by the applicant in the relief clause cannot be granted to him. Grant of relief No.(i) claimed by him is dependent upon relief No.(ii) being granted to him. In the circumstances, therefore, the applicant is not entitled to either of the two reliefs. The O.A. is therefore dismissed with no order as to costs.

4. The O.A. has been dismissed, the M.A.No.100/94 stands disposed of.


(O.P.Sharma).
Member(A).


(Gopal Krishna)
Member(J).