

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No 999 of 2004

Jabalpur, this the 21st day of November, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

D.S. Chouhan IAS (Retired)
Aged about 64 years
Son of Shri Yashwant Singh Chauhan,
Resident of G-2/231, Gulmohar Colony,
Bharat Nagar, Bhopal (M.P.)
(By Advocate – Shri S. Nagu)

Applicant

V E R S U S

1. Union of India,
Through the Secretary,
Ministry of Personnel,
Public Grievances and pensions,
Department of India, North Block,
New Delhi.
2. State of Madhya Pradesh,
Through the Principal Secretary,
General Administration Department,
Government of Madhya Pradesh,
Vallabh Bhawan, Bhopal (M.P.)
3. Sanjay Joshi, IAS,
Through the Principal Secretary,
Central Administration Department,
Vallabh Bhawan, Bhopal (M.P.)
4. Ajay Singh, IAS,
Through the Principal Secretary,
General Administration Department,
Vallabh Bhawan, Bhopal (MP)
5. N.K. Aswal, IAS
Through the Principal Secretary,
General Administration Department,
Vallabh Bhawan, Bhopal (MP)

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6. B.S. Shrivastava, IAS
Through the Principal Secretary,
General Administration Department,
Vallabh Bhawan, Bhopal (MP)

7. S.C. Pandia, IAS,
Through the Principal Secretary,
General Administration Department,
Vallabh Bhawan, Bhopal (MP)

8. D.P. Dubey, IAS,
Through the Principal Secretary,
General Administration Department,
Vallabh Bhawan, Bhopal (MP)

9. V.C. Rawat, IAS,
Through the Principal Secretary,
General Administration Department,
Vallabh Bhawan, Bhopal (MP)

10. M.A. Khan, IAS,
Through the Principal Secretary,
General Administration Department,
Vallabh Bhawan, Bhopal (MP)

11. C.P. Bhargava, IAS,
Through the Principal Secretary,
General Administration Department,
Vallabh Bhawan, Bhopal (MP) Respondents

(By Advocate – Shri S.A. Dharmadhikari for respondent No.1
None for other respondents)

ORDER

By Madan Mohan, Judicial Member –

By filing this Original Application, the applicant has sought the following main reliefs :-

“(i)to quash the decision containing in letter dated 21.9.2004 (Annexure A-9) as being void, unlawful and arbitrary.

(iii)to direct the respondents to consider and award the applicant the super time scale in the IAS

with effect from 30.11.1998, the date when batch-mates of the applicants were awarded this scale.

(iv)to further pleased to grant consequential benefits arising out of the aforesaid reliefs including the arrears of salary, pay fixation, fixation of pension and arrears of pension etc."

2. The brief facts of the case are that the applicant was appointed as IAS vide notification dated 22.9.1986 from the M.P. State Civil Service. According to the applicant, he became eligible to be awarded the Selection Grade in the IAS in 1995. Incidentally he was awarded a penalty of censure on 19.2.1996. Due to the penalty of censure, the consideration of the applicant for grant of selection grade got deferred and during this period his batch mates including one junior Shri B.N. Singh were awarded selection grade in the IAS vide order dated 3.8.1995 (Annexure-A-1). The applicant contended that he was again considered for award of selection grade in 1996 but on account of non availability of his confidential reports, he could not be considered. In the next year i.e. 1997 he was found unfit but in the year 1998 he was found fit and was granted the selection grade with effect from 1.7.1997 vide order dated 1.4.1998 (Annexure-A-2). The applicant further contended that after completion of 16 years of service he was not awarded the super time scale. He submitted a representation for awarding the super time scale, which was rejected by the respondent no.2 vide order dated 23.12.1999. The private respondents Nos. 3 to 11 belong to 1983 batch and they are junior to the applicant while they have been granted super time scale vide order dated 14.6.2000 and 17.7.2000. Aggrieved with the non-granting him super time scale he filed OA No.1065/2000 which was allowed and directed the respondent No.2 to convene a fresh Review Committee for considering the case of the applicant for grant of super time scale from the due date. The respondent No.2 vide order dated 21.9.2004 (Annexure-A-9) intimated the applicant that the Review Screening Committee which met on 25.8.2004 again found the

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applicant unfit for award of super time scale. Aggrieved with the aforesaid order, the applicant has filed this OA claiming the aforesaid reliefs.

3. Heard the learned counsel for the parties and carefully perused the records.

4. It is argued on behalf of the applicant that the respondents have ignored the applicant for awarding the selection grade within due time while which was awarded to his juniors. In the year 1998 the applicant was found fit and was granted the selection grade w.e.f. 1.7.1997 vide order dated 1.4.1998. But even after completion of 16 years of service he was not awarded the super time scale. Thus, he filed OA No.1065/2000 which was allowed with a direction to the respondent No.2 to convene a fresh Review Committee for considering the case of the applicant for grant of Super Time Scale from the due date. It was further directed that in case after the aforesaid exercise the applicant is found fit he be awarded Super Time Scale with all consequential benefits including arrears of salary. In compliance with the aforesaid order the respondents have convened a review committee. However, they have not granted the super time scale to the applicant on the ground that the applicant was not found fit in review committee while there was nothing adverse against the applicant. The action of the respondents is totally illegal and unjustified. Hence, this OA deserves to be dismissed.

5. In reply the learned counsel for the respondents argued that in compliance with the order passed by this Tribunal on 14.6.2004, the respondents have convened a meeting of a Review Screening Committee on 25.8.2004 which considered the case of the applicant for grant of Super Time Scale from the due date i.e. 21.10.1998. On the basis of the overall assessment and the record of the applicant, the committee found him unfit for promotion to Super Time Scale. The



order of this Tribunal has been duly complied with and now there remains nothing to be done. Hence, this OA deserves to be dismissed.

6. We have given careful contention to the rival contentions of learned counsel of both sides. We have also perused the minutes of the meeting of the review screening committee which met on 25.8.2004 to consider the case of the applicant for grant of Super Time Scale. On a careful perusal of the minutes of the review screening committee dated 25.8.2004, we find that the review screening committee has found the applicant unfit for grant of Super Time Scale on the following grounds-

(i) Though some adverse remarks for the year 1988-89 had been expunged, but still the following adverse remarks are existing in his ACR for the said year-

"However he has to further sharpen his ability to judge persons, especially his subordinates. Attitudes and habits which are natural and accepted in army life need to be suitably modified for working in the kind of civil milieu which now prevails".

(ii) A penalty of 'censure' was also imposed on the applicant for irregularities committed by him during 1995-96; and

(iii) The applicant has not fulfilled the criteria of 'very good' on an aver all assessment/as on 31.10.1998.

7. As regards (i) above, we find that the applicant cannot be denied grant of Super Time Scale on the basis of those remaining remarks for the year 1988-89 as these are very old, and these remarks are advisory in nature and cannot be treated as adverse. As regards (ii) above, we find that it is a settled law, that on the basis of 'censure' alone an officer cannot be denied his due promotion, and as regards (iii) above we find that this Tribunal while deciding the earlier OA No.1065/2000 vide order dated 14.7.2004 has found that out of 17 ACRs

of the applicant from 1981-82 to 1997-98, the applicant has been awarded 'very good' / 'outstanding' grade in 15-1/2 ACRs and only in 1-1/2 ACR he has been rated as 'good'. In the said order this Tribunal has further held that "Therefore, denial of the Super Time Scale to the applicant just because of old and stale entries/ACRs of the applicant pertaining to State Civil Service is also not justified in view of the aforesaid ruling of the Hon'ble Supreme Court".

8. In view of the above, we are of the considered view that the recommendations of the review screening committee which met on 25.8.2004 to consider the case of the applicant for grant of Super Time Scale is not sustainable and is accordingly liable to be quashed.

9. In the result, the OA is allowed. The impugned order dated 21.9.2004, as well as the recommendations of the review screening committee dated 25.8.2004 are quashed and set aside. The respondents-official are directed to convene a fresh review committee for considering the case of the applicant for grant of Super Time Scale from the due date, /by taking into consideration the findings recorded above by this Tribunal, within a period of two months from the date of communication of this order. If the applicant is found suitable and fit for grant of Super Time Scale, the same may be granted to him from the due date with all consequential benefits including arrears of salary as well as retiral benefits. We further direct the respondents to comply with the aforesaid directions within a period of 4 months from the date of communication of this order.

No costs.

(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman