

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 658 of 2003

Jabalpur, this the 31st day of October, 2003

Hon'ble Shri Shanker Raju, Judicial Member  
Hon'ble Shri Sarveshwar Jha, Administrative Member

Shri Anupam Rajan,  
S/o. Shri U.K. Sinha. ... Applicant

(By Advocate - Shri Kishore Shrivastava with Shri Anand Singh)

V e r s u s

Union of India,  
Through : Secretary,  
Department of Personnel &  
Training, Ministry of Personnel,  
Public Grievances and Pension,  
New Delhi,

and two others. ... Respondents

(By Advocate - Shri S.C. Sharma for respondents No. 1 & 3)

O R D E R (oral)

By Sarveshwar Jha, Administrative Member -

The applicant has impugned the orders of the  
respondents dated 14th August, 2003, whereby his probation  
period as IAS Probationer (RR:MP:93) has been extended  
for a period of nine months with effect from 28th February,  
2003 or until further orders, which-ever is earlier  
(Annexure A-1) and has prayed for the said orders being  
quashed. He has also made a prayer for interim relief that  
the operation of the impugned order dated the 14th August,  
2003 (Annexure A-1) <sup>may</sup> be stayed till the final adjudication  
of the Original Application.

2. The facts of the matter, briefly, are that the  
applicant was appointed to the Indian Administrative  
Service on 05.09.1993 on his having been selected on the  
results of the Civil Services Examination held in the year  
1992. On his appointment, he was placed on probation for

*Kishore Shrivastava*

a period of two years as per Rule 3 of the Indian Administrative Service (Probation) Rules, 1954. The period of his probation was to have come to an end on 05.09.1995, which, however, got extended by one year retrospectively vide orders of the respondents dated the 16th April, 1996 (Annexure A-2). It has been submitted that the said extension was ordered under Rule 3(3) of the Indian Administrative Service (Probation) Rules, 1954. The extension of his probation was followed by another order dated 30th August, 1996, discharging the applicant from the Service under the provisions of Rule 12 of the Indian Administrative Service (Probation) Rules, 1954 only. The applicant approached this Tribunal vide OA No. 688/1996 and the Tribunal stayed the operation of the said orders vide their orders passed on the 14th October, 1996 (Annexure A-3). The case of the applicant was subsequently heard by the Principal Bench of the Tribunal as OA No. 747/1999, after having been re-numbered, and was disposed of on 28th February, 2003. While discussing the various aspects of the matter the Tribunal allowed the OA and quashed the impugned order dated 30th August, 1996, giving liberty to the respondents to take any further action against the applicant as may be deemed appropriate in accordance with law.

3. In pursuance of the orders of the Tribunal passed on 28th February, 2003, as referred to above, the applicant was continued in service. He has since been granted promotion to the senior scale of the Indian Administrative Service vide their orders dated 4th July, 2001 (Annexure A-5) and further promoted to the junior administrative grade of the service on completion of nine years of service with reference to the year 1993, as the

*Govindwar Patel*

year of allotment, vide their orders dated the 5th March, 2002 (Annexure A-7). The applicant has also annexed a copy of the orders issued by the Government of Madhya Pradesh on the 4th July, 2001 (Annexure A/8) whereby he has been shown as having been posted as Collector, Neemuch. Suddenly, to the surprise of the applicant, he has been served with the impugned orders of the respondents dated 14th August, 2003 extending his probation by nine months with effect from 28.02.2003 or until further orders, whichever is earlier. The respondents have, however, given no specific reason except referring to the orders of this Tribunal given in OA No. 747/1999 and Sub Rule (3-A) of Rule 3 of the Indian Administrative Service (Probation) Rules, 1954. The applicant has referred to the provisions of Rule 3 of the IAS (Probation) Rules, 1954 and has also reproduced the same in paragraph 4.9 of his Original Application to drive the point that the period of probation, which would be ~~and~~ for a period of two years in the case of an ~~and~~ IAS Probationer/which can be extended by the Central Government only for a period of one year and that there ~~provision~~ is no/for further extension of the period. He has, therefore, contended that in no case the period of promotion can be taken beyond three years, subject to the provisions of Rule 3-A of Rule 3 of the IAS (Probation) Rules, 1954, provided for contingencies like suspension, pending investigation, enquiry, trial relating to a criminal charge against the probationer or pending disciplinary proceedings which are contemplated or started against the probationer, in which situations the period of probation can be extended for such period as the Central Government may think fit in the circumstances of the case. He has, therefore, contended that he, having joined

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the Service on 05.09.1993 and having been continuing in the service without any interruption and he having never been placed under suspension, Rule 3-A of Rule 3 of IAS (Probation) Rules, 1954 will not be attracted in his case. He has, therefore, argued that extension of the period of probation is bad in law.

4. The applicant has further continued to argue that the fact that he has since been promoted to the senior scale of the Service and also further to the Junior Administrative grade of the Service on completion of nine years of service with reference to the year of allotment, i.e., 1993, it would be deemed that he has been confirmed in the service and accordingly extension of his probation period ordered vide the impugned orders, in his opinion, is malafide and illegal and also amounts to penalty, which is violative of Article 311(2) of the Constitution of India.

5. The respondents had been given six weeks' time to file their reply vide the orders of this Tribunal dated 4th October, 2003. They had also been directed to file a short reply on the point of interim relief within a period of three weeks with a further direction that if no reply was filed on the next date the prayer of the applicant for interim relief would be considered. Notices had been accepted by the learned counsel for the respondents Nos. 1 and 3 and by Shri B. da. Silva on behalf of respondent No. 2. Shri S.C. Sharma, learned Standing Counsel for respondents No. 1 and 3 was present today, but he sought adjournment.

6. We have heard the learned counsel for the applicant and also perused the materials on record. It

is not disputed that the respondents were within their rights to have initiated action against the applicant as was deemed appropriate in accordance with law after having been granted liberty ~~in~~ <sup>the</sup> orders of this Tribunal in OA No. 747/1999, dated ~~28th~~ <sup>the</sup> February, 2003, which has been referred to in their impugned orders. It is surprising that they have not commented on how and why they found it appropriate and reasonable for invoking the provisions of the Indian Administrative Service (Probation) Rules, 1954, when they were aware that the applicant did not fall within the parameters as laid down under the provisions of the rule referred to by them in their impugned orders, as also submitted by the applicant in his Original Application. It is also not clear ~~why~~ <sup>as</sup> to how they found it appropriate to invoke the ~~aid~~ provisions of the IAS (Probation) Rules, 1954 for extending the period of probation in the case of the applicant when they have themselves promoted him to the Senior scale and subsequently to the Junior Administrative Grade of the Service. It can be safely presumed that no officer of the Service will be promoted to these grades until their performance has been assessed ~~as~~ <sup>satisfactory</sup> and the same has been found to be ~~XXXXXX~~. Prima facie, it appears that the impugned orders of the respondent No. 1 dated the 14th August, 2003 (Annexure A-1) have not been ~~in~~ passed on consistent application of the relevant provisions and ~~the~~ law on the subject and is ~~void~~ devoid of merit. On deeper examination of the matter, particularly the fact that considerable time has elapsed and, in the meantime, subsequent steps ~~which~~ become due, as the officer goes along in his career path completing ~~more~~ <sup>more</sup> years of service including getting promotion to higher grades, thereby making the previous stages as ~~fait-accompli~~. It

*Harshmaan Singh*

is highly doubtful that raking up the issue of extending the period of probation at this stage would at all be regarded as rational.

7. Under these circumstances and after taking into account the materials on record and after hearing the learned counsel present, we are constrained to allow this OA, and specifically direct that the impugned orders dated the 14th August, 2003 placed at Annexure A-1 to the OA shall stand quashed. No costs.

Sarveshwar Jha  
(Sarveshwar Jha)  
Administrative Member

S. Raju  
(Shanker Raju)  
Judicial Member

"SA"

प्रबंधन सं. लो/न्या..... जवाहरलाल नगर, दि.....

(1) नियमित सं. लो/न्या  
(2) नियमित सं. लो/न्या  
(3) नियमित सं. लो/न्या  
(4) नियमित सं. लो/न्या

प्रबंधन सं. लो/न्या..... जवाहरलाल नगर, दि.....

प्रबंधन सं. लो/न्या..... जवाहरलाल SC शरण, अली  
B. danira, अली

मुख्यमंत्री  
5/12/03

12/03  
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