

**Central Administrative Tribunal
Principal Bench**

**OA No.4533/2011
with
OA No.2143/2013
OA No.2144/2013**

New Delhi, this the 23rd day of September, 2015

**Hon'ble Mr. A.K.Bhardwaj, Member (J)
Hon'ble Mr. V.N. Gaur, Member (A)**

OA No.4533/2011

1. Ramesh Chandani aged about 61 years,
Son of late Sh. J.P.Chandani,
Resident of G-19, Sector-27, Noida, U.P.
2. Anwarul Haque aged about 60 years,
Son of late Mohd. Shafi,
Resident of 529-K/225/27, Pant Nagar,
Khurram Nagar, Lucknow.
3. Pramod Narain Batham aged about 61 years,
Son of Sh. Deep Narain Batham,
Resident of 34/12, Gokhaley Marg,
Lucknow.

- Applicants

(By Advocate: Sh. Piyush Sharma)

Vs.

1. Union of India through the Secretary,
Government of India,
Ministry of Personnel,
Public Grievances & Pension,
Department of Personnel & Training,
North Block,
New Delhi.
2. Secretary,
Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi.
3. State of U.P. through Chief Secretary,
Government of U.P.,

U.P. Civil Secretariat, Lucknow.

4. Principal Secretary,
Appointments Department,
U.P. Civil Secretariat, Lucknow.

- Respondents

(By Advocate: Sh. R.N.Singh, Shri Rajesh Katyal and Shri Nikhil Majithia)

II. OA No.2143/2013

Prabhat Kumar Mishra
Aged about 60 years
S/o Sh. Mritunjai Mishra
R/o M-393, Sector-M,
Ashiyana Colony, Lucknow.

- Applicant

(By Advocate: Sh. Piyush Sharma)

Vs.

1. Union of India through the Secretary,
Department of Personnel & Training,
Ministry of Personnel,
Public Grievances & Pension,
Govt. of India, North Block,
North Block,
New Delhi.
2. Secretary,
Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi.
3. Principal Secretary,
Appointments Department,
Government of U.P.,
Civil Secretariat,
'Shastri Bhawan', (Annexe),
Lucknow.

- Respondents

(By Advocate: Sh. R.N.Singh, Shri Rajesh Katyal and Shri Nikhil Majithia)

III. OA No.2144/2013

1. Ashok Kumar Singh
Aged about 60 years
S/o Late Shri C.B.Singh
R/o D 903, Shubh Kamna Apartments
Plot No. F-31, Sector 50, Noida,
District – Gautam Budh Nagar.

2. Upendra Narayan Thakur
Aged about 60 years
S/o Late Shri Sajjan Thankur
R/o R.D.C. 95, Raj Nagar,
Ghaziabad.

3. Anand Bardhan
Aged about 60 years
S/o Late Shri Lakshmi Narayan Lal
R/o D 221, Sector 47, Noida
District –Gautam Buddh Nagar.

- Applicants

(By Advocate: Sh. Ravi Bhushan)

Vs.

1. Union of India through the Secretary,
Department of Personnel & Training,
Ministry of Personnel,
Public Grievances & Pension,
Government of India,
North Block,
New Delhi.
2. Secretary,
Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi.
3. Principal Secretary,
Appointments Department,
Government of U.P.,
Civil Secretariat,
'Shastri Bhawan', (Annexe),
Lucknow.

- Respondents

(By Advocate: Sh. R.N.Singh, Shri Rajesh Katyal and Shri Nikhil Majithia)

ORDER (ORAL)

Mr. A.K. Bhardwaj, Member (J) :-

These three Original Applications have raised the common issue i.e. whether the members of State Civil Services included in the Select List for induction to Indian Administrative Service by a Selection Committee met after their retirement should be given the promotion on the basis of their such inclusion, thus are taken up for consideration together in terms of a single order.

2. The applicants herein, namely, Shri Ramesh Chandani (retired on 31.11.2010), Shri Anwarul Haque (retired on 31.08.2010), Shri Pramod Narain Batham (retired on 30.03.2012), Shri Prabhat Kumar Mishra (retired on 30.03.2012), Shri Ashok Kumar Singh (retired on 31.01.2012), Shri U.N. Thakur (retired on 31.07.2012) and Shri Anand Bardhan (retired on 28.02.2012) are retired officers of State Civil Services. After their retirement, a Committee met for consideration of members of SCS for their promotion to IAS on 7th, 8th & 22.11.2012 . In the wake of DOP&T OM of 1998, the applicants were also considered for their promotion and were included in the Select List of 2006. The list was notified in terms of notification No.14015/22/2012-AIS(I)-A dated 27.11.2012. The list reads thus :-

“SELECT LIST OF 2006

S.No.	Name of the Officer (S/Shri)	Date of Birth
0a@#	Ram Surat	20.09.1949
OB.@#\$	Surendra Veer Singh Saxena	15.07.1947

1.	Smt. Kusum Sharma	03.06.1952
1A.@@*	Naval Kishor	14.04.1951
2.	Shiv Prakash Anjor	10.08.1952
3.&	Hari Lal Pasi	02.09.1953
4.	Shiv Shankar Singh	10.09.1954
5.#	Kuldeep Kumar Mehrotra	15.01.1952
6.	Ravindra Nath Upadhyay	04.09.1953
7.	Rakesh Kumar Ojha	17.07.1955
8.	Sarvesh Chandra Mishra	25.12.1953
9.*	Laxmi Kant Shukla	20.12.1953
10.	Virendra Pratap Singh-1	12.02.1954
11.	Bijendra Bahadur Singh	15.09.1954
12.	Ramesh Chandra Mishra-I	16.07.1953
13.	Ganesh Shankar Tripathi	10.12.1952
14.	Shambhu Singh Yadav	15.03.1953
15.	Prabhat Kumar Mishra	24.03.1952
16.	Mahesh Chandra-II	15.01.1952
17.#1	Jaswant Singh	10.07.1954
18.	Vinay Priya Dubey	04.08.1954
19.	Ram Bahadur	01.01.1956
20.	Shiv Nandan Prasad	30.09.1954
21.*	Shyam Krishna	31.08.1953
22.	Devi Shankar Sharma	01.05.1954
23.	Chandra Prakash-II	08.01.1956
24.	Ashok Kumar Singh-II	02.01.1952
25.	Brij Kishor Singh	04.03.1956
26.	Ashok Dixit	24.12.1953
27.	Upendra Narayan Thakur	03.07.1952
28.	Babu Lal Agrawal	13.01.1952
29.	Shahbuddin Mohammad	16.04.1956
30.	Anand Bardhan	07.02.1952
31.	Mukesh Mittal	05.01.1955
32.	Hari Shankar Pandey-II	30.07.1954

3. In the wake, they filed the present OA praying therein :-
 "a) Direct the respondent to consider the applicants for promotion to Indian Administrative Service on the basis of their inclusion in the Notification/ Sect List of 2006 dated 27.11.12 at Sr. No.24, 27 and 30 prepared by the respondent No.1 under Promotion Regulation and to confer them the benefits of promotion with effect from the said date with all consequential benefits as admissible on such promotions;

b) pass such other and further orders this Hon'ble Tribunal may deem fit in the facts and circumstances of the case."

4. The learned counsel for applicants relied upon the judgment of Hon'ble Supreme Court in ***Mahesh Chand Vs. Union of India & Anr.*** (WP No.844/2013) wherein Hon'ble Supreme Court took a view that irrespective of the fact that the petitioners before it had retired from service, they should be deemed to have been appointed to IAS cadre of UP with consequential benefits. The order passed by the Hon'ble Supreme Court reads thus :-

"Ms. Tamta, learned counsel appearing for Union of India is not in a position to dispute the same and, therefore, we direct that the present petitioner shall be deemed to have been appointed to Indian Administrative Service, cadre of Uttar Pradesh with all consequential benefits on the basis of inclusion of his name in the Select List of 2006, not later than to his immediate junior, namely, Mr. Vinay Priya Dubey, who has been appointed to IAS Cadre on the basis of the same select list of 2006. It is hereby made clear that date of appointment of Mr. Vinay Priya Dubey shall be governing factor for grant of extension of benefit to the petitioner. The benefits be extended within a period of three months hence."

5. The learned counsel for applicant could also produce a copy of the letter passed by the respondents in implementation of the aforementioned order of Hon'ble Supreme Court. The order reads thus :-

"No. 14015/22/2012-AIS (I)
Government of India
Ministry of Personnel, Public Grievances &
Pensions
Department of Personnel & Training

New Delhi, 9th December, 2014.

O R D E R

WHEREAS, inter-alia the name of Sh. Mahesh Chandra-11, a member of the State Civil Service of Uttar Pradesh was included at SI. No. 16 in the Select List of 2006 approved by the Union Public Service Commission on 26.1.2012 for promotion to IAS Cadre of Uttar Pradesh;

AND WHEREAS, this Department inter-alia notified the said Select List and also appointments of unconditionally included officers therein and who were also in service vide notification no. 140 15/22/2012-B dated 27.11.2012;

AND WHEREAS, while considering the appointment of SCS officers included in the aforesaid Select Lists to IAS cadre of Uttar Pradesh it was observed that Sh. Mahesh Chandra-11, (date of birth 15.01.1952) after attaining the age of superannuation, i.e. 60 years had already retired from the State Civil Service;

AND WHEREAS, it was observed that in terms of Regulation 9(1) of IAS (Appointment by Promotion) Regulations, 1955 only a member of the State Civil Service could be appointed to IAS;

AND WHEREAS, it was observed that Sh. Mahesh Chandra-11, who had since retired from the State Civil Service on the date of notification he had ceased to be a member of the SCS;

AND WHEREAS, in view of the above rule position appointment of Shri Mahesh Chandra-11, to IAS could not be notified,

AND WHEREAS, Sh. Mahesh Chandra-11 had filed W.P. No. 844 of 2013 before Hon'ble Supreme Court of India wherein had raised the issue of his non-appointment to IAS. The Hon'ble Supreme Court of India vide order dated its order dated 18.10.2014 in WP (C) No. 844 of 2013 with IA No. 1j2013, directed as under:

“Ms. Tamta, learned counsel appearing for Union of India is not in a position to dispute the same and, therefore, we direct that the present petitioner shall be deemed to have been appointed to Indian Administrative Service, cadre of Uttar Pradesh with all consequential benefits on the basis of inclusion of his name in the Select List of 2006, not later than to his immediate junior, namely, Mr. Vinay Priya Dubey, who has been appointed to IAS Cadre on the basis of the same select list of 2006. It is hereby made clear that date of appointment of Mr. Vinay Priya Dubey shall be governing factor for grant of extension of benefit to the petitioner. The benefits be extended within a period of three months hence.”

At this juncture, we may note that I.A. No. 112013 has been filed by one Mr. Krishna Kaot Shukla for impleadment on the ground that he is senior to the present petitioner and similarly situated. If that is so, the Union of India shall be well advised to extend the benefit to Krishna Kant Shukla on the same parameters so that the Central Government can set an example how a litigation can be avoided.

The writ petition and the IA No. 112013 stands disposed of on the above terms. The re shall be no order as to cost.”

AND WHEREAS, the Hon'ble Supreme Court in its above order has recorded the appointment of Shri Ram Naval Singh (who had retired ffom the State Civil Service) on the basis of court case Union of India and Anr. V. Hemraj Singh Chauhan & Ors. (201 0) 4 SCC 290 wherein a view was expressed in favour of the respondents after repelling the contentions raised by the Union of India.

NOW THEREFORE, in pursuance of directions of Hon'ble Supreme Court contained in the order dated 18.10.2014 in WP (C) No. 844 of 2013 with IA No. 112013 Sh. Mahesh Chandra-I1 @ O.B. 15.01.1952) will be deemed to have been appointed to IAS Cadre of Uttar Pradesh with all consequential benefits on the basis of inclusion of his name in the Select List of 2006 not later than

his immediate junior viz. Sh. Vinay Priya Dubey appointed to IAS on the basis of the same Select List of 2006.”

6. In terms of provisions of Article 141, the law declared by the Hon’ble Supreme Court is binding on the authorities within its jurisdiction.

7. In the wake the OA is disposed of with a direction to the respondents to examine the claim of the applicants for their appointment to IAS in terms of the aforementioned judgment of Hon’ble Supreme Court within eight weeks from the date of receipt of a copy of this order. It is made clear that since the applicants have already retired from service and would not occupy any post, the respondents may not be required to disturb such candidates who have already been promoted to IAS on the basis of the selection list in question. Once the name of the applicants have already been included in the select list and their claim in the present OA is based on such inclusion, there would be no question of any review DPC. No costs.

(V.N. Gaur)
Member (A)

(A.K.Bhardwaj)
Member (J)

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