

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.3457/2016

Reserved on : 05.10.2018
Pronounced on : 16.10.2018

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

Alok Awasthi (IAS) S/o J. N. Awasthi,
Managing Director,
Chattisgarh Handicraft Development Board,
Government of Chattisgarh,
D 1/1 Govt. Officers Colony,
Devendra Nagar, Raipur.

... Applicant

(By Mr. Naresh Kaushik, Advocate)

Versus

Union of India through Secretary,
Ministry of Personnel, P.G. & Pensions,
Department of Personnel & Training,
North Block, New Delhi.

... Respondent

(By Mr. Gyanendra Singh, Advocate)

ORDER

Justice L. Narasimha Reddy, Chairman :

The applicant was initially appointed as Assistant Director of Public Relations (for short, ADPR) on 05.02.1986 by the Government of Madhya Pradesh in the pay scale of Rs.8000-13500. On 13.10.1993, he was promoted to the post of Deputy Director in the pay scale of Rs.10000-15200. On division of the

State of Madhya Pradesh, he was allotted to the State of Chattisgarh.

2. On 20.07.2007, the applicant was appointed to the Indian Administrative Service by way of promotion, on the basis of the select list of the year 2006. He was assigned the year of allotment of 2002. The plea of the applicant is that the post of Assistant Director held by him was equivalent to that of Deputy Collector, and the service rendered by him in that post was required to be taken into account in determining the year of allotment, and instead, his service only in the post of Deputy Director of Public Relations (DDPR) was taken into account. He contends that the scale of pay for the post of ADPR is same as that of Deputy Collector.

3. The applicant filed OA No.3834/2010 before this Tribunal, claiming that the service rendered by him as ADPR deserves to be taken into account for choosing the year of allotment in IAS. After hearing both the parties, the Tribunal passed a detailed order dated 28.01.2014 directing the respondents to verify whether the service rendered by the applicant in that post can be taken into account for deciding the year of allotment in the IAS. Direction was also issued to

ascertain whether any officer appointed to the IAS was extended the benefit of service rendered by him in the pay scale of Rs.8000-13500, even when the duty of the post held by him was not comparable to that of Deputy Collector. Other steps were required to be taken. In the light of such directions, the Ministry of Personnel, P.G. and Pensions, Department of Personnel & Training passed an order dated 15.02.2016 informing the applicant that the service rendered by him as ADPR between 05.02.1986 and 13.10.1993 cannot be treated as equivalent to the post of Deputy Collector. The same is challenged in this OA.

4. The applicant contends that the posts of ADPR, on the one hand, and Deputy Collector, on the other, carry same scale of pay, and except that the departments are different, the nature and extent of powers, and duties attached to these posts are similar in nature. He further contends that in the State of Madhya Pradesh, the service rendered by the incumbents in the post of ADPR was counted for the purpose of the year of allotment in the IAS, and in his case similar treatment has been denied.

5. The respondents filed counter affidavit. It is stated that the post of ADPR is not at all comparable to the post of Deputy Collector, and the equation, if at all, is only with the post of DDPR, which the applicant held w.e.f. 13.10.1993. It is mentioned that the State Government clarified through letter dated 14.10.2011 that they did not retrospectively declare the post of ADPR equivalent to the post of Deputy Collector, and that it was only through notification issued later, that such a declaration was made. They contend that even in the State of Madhya Pradesh, the equation was through notification dated 22.05.2010 and not earlier thereto.

6. We heard Shri Naresh Kaushik, learned counsel for the applicant, and Shri Gyanendra Singh, learned counsel for the respondents.

7. This is the second round of litigation for the applicant in his attempt to get an earlier year of allotment, which, in turn, would have its impact upon his seniority. The respondents have taken into account, the service rendered by the applicant in the post of DDPR for fixing the year of allotment. The applicant, however, wanted his service in the post of ADPR to be treated as holding good for that purpose.

8. It may be true that the pay scale of the post of ADPR and Deputy Collector, at one point of time, was the same. However, that hardly constitutes any basis in the context of equation of posts. Much would depend upon the nature of the power conferred on the incumbents holding the posts, and the stages at which they occur in the administration. After evaluating various aspects, the State Government has consistently been treating only that part of the service of an incumbent, as is rendered in the post of DDPR, as equivalent to the post of Deputy Collector.

9. The State of Madhya Pradesh issued a notification dated 22.05.2010 treating the post of ADPR as equivalent to Deputy Collector. However, there is nothing to indicate that such equation was retrospective, and in fact, it cannot be. In the state of Chattisgarh also, similar measures were taken with effect from a different date. The learned counsel for the respondents has placed before us a copy of letter dated 27.11.2015 addressed by the Secretary, General Administration Department, Government of Chatisgarh, which reads as under:

“Sub.: Order of Hon’ble CAT, Principal Bench, New Delhi passed on 28-01-2014 in OA No.3834/2014 in the matter of Shri Alok Awasthi Vs. UOI and others.

Sir,

In respect of clarification sought in the matter of Shri Alok Awasthi, in reference to the above mentioned OA no.3834/2014 in the matter of Shri Alok Awasthi Vs. UOI and others, the State Government is of the view that at the time of selection of Shri Alok Awasthi to IAS, the post of Deputy Director, Public Relation was declared to be equivalent to the post of Deputy Collector vide provision of IAS (Appointment by Selection) Regulations 1997, Rule 4(iii), hence the seniority was decided from the post of Deputy Director.

The State has never declared the post of Assistant Director as being equivalent to the post of Deputy Collector. Madhya Pradesh Government has declared the post of Assistant Director, Public Relation Department to be equivalent to the post of Deputy Collector in 2010. If M.P.s Government Order is taken into consideration, services rendered by Shri Awasthi as Assistant Director cannot be treated equivalent to post of Deputy Collector, retrospectively. This benefit can accrue only to such Non SCS Officers of the rank of Assistant Director, Public Relation who considered due for promotion to IAS in year 2010 and beyond.

In response to the query, whether there have been any cases, where benefits of such seniority has been given to other officers, it is submitted that no cases of this nature have arisen in the State, to date."

10. The applicant is not able to place any material contrary to this, before us. Assuming that the applicant would be entitled to benefit of the orders issued by the Madhya Pradesh Government since his initial service was in that State

before it was divided, the only notification issued by the Madhya Pradesh Government is the one dated 22.05.2010, whereby the post of ADPR is equated to Deputy Collector, but only with prospective effect. The applicant became Deputy Director in the year 1993 and was inducted into the IAS in the year 2007. It is long thereafter that the equation was made, that too, by the State of Madhya Pradesh. That would not form any basis to interfere with the impugned order.

11. The OA is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/as/