

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA**

OA No. 050/00542 of 2014

Date of order reserved: 21.02.2018
Order pronounced on 06.04.2018

CORAM

Hon'ble Shri A.K. Upadhyay, Member [A]
Hon'ble Shri Jayesh V. Bhairavia, Member [J]

Vijay Kumar Sinha, (IAS Retd.), S/o Late D.P. Singh, R/o G/26, P.C Colony,
P.O Lohianagar, P.S – Kankarbagh, District and Town – Patna.
.....Applicant

By Advocate : Shri S. Madhavan

Versus

1. The Union of India through the Secretary, Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, New Delhi.
2. The Secretary, Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, New Delhi.
3. The Director (S), Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, New Delhi.
4. The State of Bihar represented through the Chief Secretary, Government of Bihar, Patna.
5. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
6. The Accountant General (A&E), Bir Chand Patel Marg, Patna, Bihar.

.....Respondents

By Advocate: Shri B. Pandey

ORDER

Jayesh V. Bhairavia, M [J]:- In the present OA, the applicant has prayed for the following reliefs:-

"(8.1) The order dated 30.4.2014 (Annexure A/9) contained in No. 22012/04/2014-AIS-II 11 may be declared as illegal, void and unconstitutional.

(8.2) It be held and declare that the applicant is entitled to Grade Pay of Rs. 10,000/- as against Rs. 8700/- arbitrarily reduced by the respondents;

(8.3) The respondents may be directed to grant all consequential benefits in view of grant of relief (s) 8.1 and 8.2 with arrears and accordingly revise pension as well as pensionary benefits without a time period.

(8.4) Cost of the litigation."

2. The brief facts of the case are as under:-

(i) The present applicant had earlier approached this Tribunal by way of filing OA 836 of 2012 along with another and sought reliefs as below:-

"8 (i) That Your Lordships may graciously be pleased to quash and set aside the impugned fixation of pay in the Grade Pay of Rs. 8700/- in place of Rs. 10,000/- vide fixation dated 27.12.2011 as contained in Annexure A/3.

8 (ii) That Your Lordships may further be pleased to direct / command the respondents to fix the pay of the applicants in the Grade Pay of Rs. 10,000/- in view of Annexure A/6 and A/2 without any delay.

8 (iii) That the respondents further be directed to grant all consequential benefits including the arrears on account of granting the Grade Pay of Rs. 10,000/- together with interest thereon at the rate of 18% per annum.

8 (iv) Any other relief or reliefs may be allowed in favour of the applicant for which he is legally entitled to."

3. This Tribunal, vide order dated 3.10.2012, disposed of the said OA with the following directions:-

" Considering the submissions made by the parties, we dispose of this OA at the admission stage itself, without expressing any opinion on the merit of the case, with direction to respondent no. 3 i.e Secretary to the Government of India, Ministry of Personnel, Public Grievances and Pension, Department of Personnel or any other competent authority under him to consider the representation of the applicants, treating this OA as additional representation and take a decision in the matter of pay fixation within a period of one month from the date of communication of this order."

4. Further, in compliance with the above order of this Tribunal, the respondent No. 3 i.e the Director (S), Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, New Delhi, vide order dated 30.4.2014, rejected the representation of the applicants by passing a reasoned order. The relevant portion of the said order dated 30.4.2014 is as below:-

"..... And whereas the policy framed under Indian Administrative Service (Pay) Amendment Rules, 2009 does not allow grade pay of Rs. 10,000/- to the officers inducted from State Civil Service to the Indian Administrative Service.

And whereas the Notification No. 14021/11/2008-AIS-II dated 15th April, 2009 issued by the Director, Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, New Delhi provides that notwithstanding anything contained in the first proviso to sub-rule (1) of rule 3 and the Notes thereunder, the initial pay of a promoted officer or an officer appointed by selection, as the case may be, shall be fixed in the pay band 3 or pay band 4 by adding one increment

equal to 3 % of the sum of the pay in the pay band and the grade pay applicable which will be rounded off to the next multiple of 10. In addition, the grade pay of Senior Time Scale or Junior Administrative Grade or Selection Grade, corresponding to pay scale or grade pay in the State Service, shall be granted. Provided that the grade pay attached to Selection Grade shall be granted with the pay in running pay band 4 only.

And whereas the Grade Pay of a promoted State Civil Service officer to Indian Administrative Service can be protected only up to the grade pay of Selection Grade i.e Rs. 8700/-. As such grade pay of Super time Scale of Rs. 10,000/- cannot be allowed to an officer who is inducted into IAS by promotion or selection."

5. Heard the parties and considered their rival submissions.
6. It can be seen that this OA is purely relating to grant of Grade Pay of Rs. 10,000/- on induction of the applicant from State Civil Service into IAS instead of G.P Rs. 8700/-. The earlier OA was also relating to the same issue. This Tribunal, without touching upon the merit of the applicant's case in earlier OA, disposed of the matter with direction to respondent no. 3 to take a decision in the matter of pay fixation of the applicant. It is also seen that the competent authority i.e respondent no. 3, vide order dated 30.4.2014, considered the representation of the applicant and held the view that the representation lacks merit and cannot be acceded to. The respondents, while dealing with the representation of the applicant, relied upon the Notification dated 15.4.2009, as per which the Grade Pay of a promoted State Civil Service officer to IAS can be protected only up to the grade pay of Selection Grade i.e. Rs. 8700/-. The Grade pay of Super time Scale of Rs. 10,000/- cannot be allowed to an officer who is inducted into IAS by promotion or selection.
7. The submission on behalf of the applicant is that just prior to his appointment/promotion to IAS cadre, he was holding substantive post of

special Secretary, Bihar Administrative Service, and as per notification dated 25.8.2011 issued by General Administration Department, Bihar, Patna (Annexure A/10), the applicant was granted GP Rs. 10,000/- in pay band Rs. 37400-67000/-. That, after promotion/ appointment in the IAS cadre, the applicant's pay was fixed in the same pay band 4 i.e Rs. 3700-67000/- but with lesser GP of Rs. 8700/-. Once it is clarified that applicant was granted PB 4 with GP Rs. 10000/- before induction into IAS, the applicant's G.P needs to be protected as per the notification dated 15.4.2009 under IAS (Pay) Amendment Rules, 2009.

8. The pay fixation of State Civil Service officers on promotion to IAS is governed by the provisions of Schedule I, para 1 of the IAS (Pay) Rules, 2007, as amended by the DOP&T notification GSR 253 (E) dated 15.4.2009 which has been already cited in para above. It is clear from the said provision that the grade pay of the promoted officer can be either Senior time Scale or Junior Administrative Grade or Selection Grad, as the case may be. These grades as per rule 3 of the IAS Pay rules, 2007 are as follows:- to quote B.

"3. Scale of pay and appointment in these grades.

(1).....

(A).....

(B) Senior Scales:-

(i) Senior time Scale :- Pay Band – 3 : Rs. 15600-39100 plus Grade Pay of Rs. 6600 (Two additional increments shall be granted at the time of pay fixation on promotion);

(ii) Junior Administrative Grade –

Pay Band – 3 : Rs. 15600-39100 plus Grade Pay Rs. 7600 (Two additional increments shall be granted at the time of pay fixation on promotion);

(iii) Selection Grade :-

Pay Band – 4; Rs. 37400-67000 plus Grade Pay Rs. 8700 (Two additional increments shall be granted at the time of promotion on the minimum of the pay band plus grade pay) (with effect from the 1st day of January, 2006).

9. It is obvious that the pay fixation of a promoted officer is permitted up to selection grade which carries a grade pay of 8700, while protecting his total emoluments.. The applicant is demanding the grade pay of Rs. 10000 which pertains to Super time Scale on the ground that prior to the induction in the IAS, the applicant was already in the super time scale carrying a grade pay of Rs. 10000/- However, as we have noted above, the grade pay on promotion to IAS is limited to selection grade as per the IAS Pay rules Schedule I para (1). The applicant has not challenged the vires of the rules.

10. It is self evident that the induction from the State service to IAS is voluntary and the officer willingly accepts it knowing full well the rules regarding the pay fixation.

11. It also appears from the rules that a certificate has been recorded by the DOPT as a part of the rules stating that " *it is certified that no member of the Indian Administrative Service is likely to be adversely affected by giving effect to these rules.*"

12. In conclusion, the authority have taken a decision dated 30.4.2014 (Annexure A/9) in conformity with the IAS Pay rules, 2007. Therefore, no interference is called for. The submissions of the applicant is not tenable in view of the provisions of the aforesaid rules. Further, these rules have not been challenged nor do we find anything perverse in the rules. The OA is, accordingly, dismissed. No order as to costs.

(Jayesh V. Bhairavia) M [J]

(A.K. Upadhyay) M (A)

/cbs/

