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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 9139/2017**

UNION OF INDIA

..... Petitioner

Through: Mr. Ravi Prakash, CGSC with Mr.
Farman Ali, Advocate.

versus

VIMAL CHANDRA PANDEY AND ORS. Respondents

Through: Mr. Vimal Chandra Pandey,
Respondent No.1 in person

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

% **02.12.2019**

CM APPL. 6875/2018 (delay)

1. For the reasons stated in the application, the delay in filing the amended memo of parties is condoned. The application is disposed of.

W.P.(C) 9139/2017 and CM APPL. 37405/2017 (stay)

2. The present petition by the Union of India, through the Secretary, Ministry of Home Affairs is directed against an order dated 31st May, 2016 passed by the Central Administrative Tribunal (CAT) in OA No. 2612/2008.

3. The issue before the CAT concerned the issue of allocation of the Respondent, who was initially appointed in Group-II of DANICS and ICS with effect from 21st June, 1979, on the basis of Civil Services Examination

of 1977, to the Indian Administrative Services (IAS), and in particular to the Junior Administrative Grade (JAG) I and II.

4. The issue in the petition, as formulated by the CAT by an order dated 28th January, 2015, read as under:-

“1. Whether the induction of DANICS officers to IAS under the Regulations, 1955 would be governed by the seniority prevailing as per the provisions of National Capital Territory of Delhi, Andaman and Nicobar Islands, Lakshadweep, Daman and Diu and Dadra and Nagar Haveli (Civil Service) Rules, 2003 or only as per the requirement of 8 years continuous service as Deputy-Collector as provided under provision (iii) of Rule 5(2) of Regulations, 1955?

2. Whether the instant Original Applications are barred by non-joinder of necessary parties?

3. What relief if any, could be granted to the applicants?”

5. The CAT has in the impugned order answered the above issues in favour of the Respondent No.1, who superannuated on 30th June, 2016. The impugned order of the CAT has been implemented in his case subsequent to his filing a contempt petition. The Respondent is stated to have filed a review application against the dismissal of the contempt petition by the CAT.

6. Without commenting on the said development, the Court notes that the three OM's referred to by the CAT in the impugned order, i.e. the OM dated 3rd December, 2012 by the UPSC and the OM's dated 10th December, 2012 and 21st May, 2013 by the MHA already stand withdrawn. Secondly, the

Respondent has superannuated. In light of the questions raised in the present petition by the Petitioner particularly in light of Rule 5 (2) of the All-India Services (IAS) (Appointment by Promotion) Regulation 1955, the Court considers it appropriate to direct that the questions of law raised by the Petitioner, arising out of the impugned order of the CAT, should be left upon for decision in an appropriate case. It is ordered accordingly.

7. The Court clarifies that the impugned order of the CAT would not constitute a precedent and would not bind the Petitioner when it has to take a decision on a similar issue in some other case.

8. The petition is disposed of in the above terms. The pending application is also disposed of.

S. MURALIDHAR, J.

TALWANT SINGH, J.

DECEMBER 02, 2019

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