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W.P.No.15220 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.15220 of 2016

R.Balasubramanian

... Petitioner

Vs.

1.Union of India, rep. by its Secretary,
Ministry of Information & Broadcasting,
Shastri Bhavan, 'A' Wing, 5th floor,
Dr.Rajendra Prasad Marg,
New Delhi 110 001.

2. The Secretary (Personnel),
Department of Personnel & Training,
Ministry of Personnel, Public Grievances & Pensions,
North Block, New Delhi 110 001.

3. Ranjana Deo Sarmat, Director, EMMC,
C/o Ministry of Information & Broadcasting,
Shastri Bhawan, 'A' Wing,
5th Floor, Dr. Rajendra Prasad Marg,
New Delhi 110 001.

4. The Registrar, Central Administrative Tribunal,
High Court, Chennai 600 014.

... Respondents



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Prayer: Writ petition filed under Article 226 of Constitution of India to issue a writ of certiorarified Mandamus, to call for the records of the 4th respondent in O.A.No.606/2012 dated 06.01.2016 and quash the same and consequently, direct the respondents to consider and grant NFSG to the petitioner in Junior Administrative Grade w.e.f. 09.06.2007 with all consequential benefits, including monetary benefits and pensionary benefits flowing there from.

For petitioner : Mr.Karthik Mukundan
for M/s Menon Karthik
For Respondents : Mr.S.Janarthanan, Senior Panel Counsel
for Respondents 1 to 3
R4- Tribunal

ORDER

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This writ petition has been filed, as against the order passed by the Tribunal in O.A.No.606/2012 dated 06.01.2016, in and by which, the prayer of the petitioner *to grant all notional benefits of higher grades of IIS (Group 'A') such as senior Grade and JAG from 30.10.1998 and 06.11.2006, respectively, on par with his immediate junior Ranjana Devi Sarmah* was dismissed.

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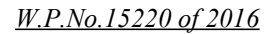


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2. The brief facts leading to the filing of the writ petition is as follows.

The petitioner had joined in Central Information Service on 04.06.1973 in Grade-IV (Non - Gazetted Group B Pot) and subsequently promoted to Grade-III of Central Information Service on 28.03.1977, which was a gazette post in Group B. Thereafter, he was promoted to Junior Grade of IIS Group 'A' on 9.6.1994 on adhoc basis and on 03.06.1977 on regular basis. Further, he was promoted to Senior Grade of IIS Group A Grade-I of Central Information Service on 10.07.2002 and then to Junior Administrative Grade of Indian Information Service on 01.04.2008. He retired from service on superannuation on 31.08.2008.

2.1. As per the Indian Information Service (Group-A) Rules, 1987 governing appointment to Indian Information Service (Group-A), 50% of the vacancies in the Junior Grade shall be filled up by direct recruitment and the remaining 50% shall be filled up by promotion from feeder grade (Grade-III of Central Information commission), on the basis of Selection on merit. The petitioner came within the zone of consideration for appointment



The Departmental promotion Committee was not convened in that year or in the subsequent immediate years and it was convened in the year 1997 for consideration of promotion for the vacancies, arose in the years 1990-1994. The Committee had prepared year wise panel and the petitioner's name was included in the panel along with 20 other officers against the vacancies, which arose in the year 1990. The petitioner was then promoted to Junior Grade JTS of Group-A on regular basis, vide order dated 03.06.1997.

2.2. As per the Indian Information Service (Group A) Recruitment Rules, 1987, all vacancies in Senior Grade of IIS-Group A, to be filled up by promotion on the basis of Seniority-cum-fitness from the officers in the Junior Grade with 4 years regular service in that grade. However, while amending the above rules in the year 1991, this Senior-Junior clause was removed and hence, the petitioner was denied promotion to Senior Grade of IIS Group-A in the year 1998, when 11 of his juniors (Direct recruits of 1990 to 1992) were promoted. Subsequently, 17 more of his juniors were also promoted to Senior Grade, before his promotion to that grade in the



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year 2002. However, all the promotions were made subject to the outcome of various cases pending before the Supreme Court of India and various Benches of the Central Administrative Tribunal.

2.3. Thereafter, in compliance to the judgment dated, 17.07.2002 in OA 1963/2020 by the Principal Bench of CAT, New Delhi, a final seniority list of IIS Group-A officers in Junior Grade, as on 31.03.2000 was issued on 20.02.2004 by the first respondent, in which the petitioner's name was correctly figured at Sl.No.484, below one P.Doungal (Sl.No.483) and above one Ranjana Dev Sarmah (Sl.No.485). However, in the another civil list for senior grade of IIS Group 'A' for the period on 22.07.2004, the petitioner's name did not find place and for the same, the petitioner had given objection and sought restoration of his seniority as per final seniority list dated 20.02.2004, but there was no reply. In such circumstances, the IIS Group-A Rules were further amended, vide IIS Group 'A' amended Rules, 2008, notified on 02.02.2008, thereby, reintroduced the junior-senior clause (Note-3 below Schedule IV of IIS Group 'A' Rules 1987) retrospectively from 12.10.1991. Pursuant to the above amendment to IIS



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Group -A rules, the first respondent had convened a Review DPC on 05.08.2010 and modified orders for senior grade was issued on 19.10.2010.

In the above order, the petitioner's seniority was not restored and the petitioner had submitted his objections, vide representations dated 26.11.2010 and 8.12.2010.

2.4. According to the petitioner, the review DPC was not conducted properly and the revised rules had applied erroneously. If the Rules had been applied in proper manner, the petitioner would have been eligible for promotion to STS from 30.10.1998 itself and further to the Junior Administrative Grade w.e.f. 16.11.2006, on which dates, his juniors were promoted to those grades. On the other hand, the petitioner had promoted to STS in 2002, JAG on regular basis only on 01.04.2008 and granted non functional upgradation in JAG w.e.f. 05.04.2007 and the petitioner retired on 31.08.2008. Since the petitioner's representations were rejected, he approached the Tribunal, however, his prayer was declined. Hence, the petitioner has filed the present writ petition.



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3. Heard the learned counsel for the petitioner and the learned counsel for the respondents and we have perused the materials on record.

4. It is the case of the petitioner that, during the course of arguments before the Tribunal, he confined his relief to the grant of Non Functional Selection Grade (NFSG) on entering into the 14th year service in Group A. The decision of the DOPT, vide note dated 07.12.2006, clarified that, there can be no objection for counting the entire service, including the adhoc service for the purpose of granting NFSG. Further, in similar circumstances, NFSG was granted to three IIS officers, namely, Mr.O.P.Datta, Mr.S.Balakrishnan and Mr.J.N.Barve, by taking into account the adhoc service rendered by them, prior to regular promotion to JTS. However, the petitioner has been discriminated and the adhoc service rendered by him has been ignored.

4. Admittedly, the petitioner had entered Group A (JTS) service on adhoc basis on 09.06.1994, which continued till 02.06.1997. Further, he was granted regular promotion to JTS on 3.6.1997. According to him, if the



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ad hoc period is taken into account, he would be entering the 14th year of service in Group A as on 09.06.2007. Further, it is the contention of the petitioner that his junior Ms.Ranjana Dev Sarmah (Sl.No.485 in the final seniority list of Junior Grade of IIS Group-A dated 20.02.2004) was granted NFSG w.e.f. 27.12.2006. Likewise, in the seniority list of JAG officers of IIS group -A dated 18.07.2012, where the petitioner is at Sl.No.120, his juniors at sl.nos.124, 125, 128, 130, 131, 134, 135 and 137 were granted NFSG, vide order dated 14.01.2010. But the petitioner was promoted to JAG w.e.f. 20.07.2007, vide order dated 17.07.2012.

5. The petitioner is admitting the final seniority list dated 20.02.2004. However, his claim for promotion to higher grades of STS and JAG was, on the strength of junior-senior clause, not on his ad hoc service, whereas, his claim for NFSG alone was, on the basis of his ad hoc service. But, the Tribunal, without appreciating the above aspects in proper perspective, has erroneously dismissed the application filed by the petitioner. Therefore, the petitioner has prayed to grant NFSG in JAG w.e.f 09.06.2007, on which date, he had completed 13 years of service, with all consequential benefits,



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including monetary benefits and pensionary benefits.

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6. Originally, the petitioner had filed the original application assailing the seniority list dated 9.5.2011 of Senior Grade Officers of IIS Group-A, insofar as the petitioner is concerned and to extend all notional benefits of Senior grade of IIS Group-A and JAG on par with his junior. Subsequently, he has restricted his claim to the extent for granting NFSG, on completion of 13 years, by taking into account the adhoc service rendered by him. According to the petitioner, even though he is entitled to get the benefit of NFSG, the above request has not been considered either by the Department or by the Tribunal, but his juniors were granted the benefit of NFSG by the Department.

7. Considering the fact that the petitioner has restricted his claim only to grant the benefit of NFSG, and to that extent, there is no finding in the order passed by the Tribunal, we inclined to dispose the writ petition, by giving direction to the respondents.



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8. Accordingly,

i) The petitioner shall send the copy of the representation along with the copy of this order to the Department, within a period of one week from the date of receipt of a copy of this order.

ii) The respondent/Department is directed to consider the claim of the petitioner for granting NFSG and to pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of this order.

iii) We make it clear that the authorities concerned shall take decision independently, without being influenced by any of the observations made by this Court in this order.

9. With the above direction, this writ petition is disposed of. No costs.

(D.K.K.J.) (P.D.B.J.)

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Internet: Yes/No
Index : Yes/No
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To

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High Court, Chennai 600 014.
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Ministry of Information & Broadcasting,
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and

P. DHANABAL, J.

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