
(2018) 11 CAT CK 0071

In the Central Administrative Tribunal

Case No : Original Application No. 4035 Of 2016

Navneet Rajan Wasan

APPELLANT

Vs

Union Of India Through

RESPONDENT

Date of Decision : 29-11-2018

Acts Referred:

Citation : (2018) 11 CAT CK 0071

Hon'ble Judges : L. Narasimha Reddy, J; Aradhana Johri, Member (A)

Bench : Division Bench

Advocate : Hanu Bhaskar

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J

1. The applicant is an officer of Indian Police Service (IPS) of 1980 batch, belonging to the cadre of Telengana. He joined the National Investigating Agency, Ministry of Home Affairs, on 29.03.2012. He was empanelled for the post of Director General of Police (DGP), Government of India, along with other IPS officers of the 1980 batch, on 04.03.2014. With effect from 14.08.2014, he was promoted to the post of Special Director General. IPS officers of the 1981 batch were empanelled for the post of DGP, Government of India on 23.12.2014. One of the officers so included in the panel, by name, Shri A. K. Dhasmana, was appointed to a post which carried the apex scale of pay, through order dated 13.03.2015. Two months thereafter, the applicant was also appointed as Director General, Bureau of Police Research & Development (BPR&D), Ministry of Home Affairs, on 07.05.2015, in the HAG+ scale. It is also stated that Shri Anurag Sharma, an IPS officer of the 1982 batch, was appointed as DGP in the apex scale on 13.11.2015.

2. The applicant submitted representations to the respondents with a request to extend the benefit of apex scale to him, by citing instances referred to above. He retired from service on 30.11.2015 on attaining the age of superannuation.

3. The applicant filed OA No.1272/2016 before this Tribunal, stating that the representations made by him for extension of the apex scale are not considered. The OA was disposed of on 06.04.2016 directing that the representation made by the applicant be considered within eight weeks from the date of receipt of the order. Through order dated 03.10.2016, the respondents informed the applicant that his request cannot be acceded to. It was mentioned that the pay of an IPS officer is governed by the IPS (Pay) Rules, 2007, and IPS (Pay) Amendment Rules, 2008, and since these Rules do not allow apex scale of pay to an IPS officer on Central deputation just because his junior on Central deputation was granted that scale, his request cannot be acceded to. Other grounds are also mentioned. The applicant challenges the said order.

4. The respondents filed counter affidavit opposing the OA. It is stated that mere inclusion in the panel does not confer any right upon the applicant, and it is only when he is appointed against a post that carries the apex scale, that the benefit can be extended. It is also stated that the manner in which the pay scale shall be determined, is indicated under the relevant rules, and the applicant cannot claim the apex scale simply by citing the cases of the officers who were junior to him.

5. The applicant argued the case in person, and on behalf of the respondents, Shri Hanu Bhasker, learned counsel, appeared.

6. It is a matter of record that the applicant was empanelled for the post of DGP in the Government of India on 04.03.2014, along with his batch mates of the 1980 batch. On being included in the panel, the applicant and other officers included therein became eligible to be appointed against the posts of the category of DGP. While some of such posts are in the apex scale, others are in HAG+ or similar scale of pay. The Rules referred to above govern the pay structure of the IPS officers, who are continuing in the cadre of the State. The pay scales of the officers on Central deputation, however, are governed by different provisions of law.

7. It is true that an officer can get only the scale of pay attached to the post held by him, and he cannot draw comparison with others. Further, the mere fact that an officer included in the same panel, who is relatively junior, is drawing the apex scale, does not constitute a ground by itself for a senior to claim that scale. If this OA is tested on those principles, the applicant cannot get any relief at all.

8. One important factor, however, makes the needle to swing in his favour. The incumbents who held the very post held by the applicant, i.e., DG, BPR&D, were extended the benefit of the apex scale. The predecessor of the applicant, by name, Shri P. Mukherjee, IPS (WB:73), held that post till he retired on superannuation on 30.09.2010. Through an order dated 05.02.2009, he was granted the scale of Rs. 80,000/- (fixed), which is nothing, but the apex scale. Further, Ms. Meeran C. Borwankar, IPS (MH:81), succeeded the applicant as DG, BPR&D. Through a memorandum dated 02.11.2016 issued by the respondents, Ms. Meeran C. Borwankar was granted the apex scale of pay. The respondents

did not dispute this aspect.

8. Once it is evident that not only the predecessor, but also the successor of the applicant, were extended the benefit of the apex scale of pay, there is no reason why the applicant is not entitled for it.

9. We, therefore, allow the OA, and direct the respondents to extend the benefit of the apex scale of pay to the applicant, as was done in the cases of Shri P. Mukherjee, and Ms. Meeran C. Borwankar, with the attendant benefits. The exercise in this behalf shall be completed within a period of two months from the date of receipt of this order. There shall be no order as to costs.