
(2019) 01 CAT CK 0138

In the Central Administrative Tribunal

Case No : Original Application No. 830 Of 2014

Prakash Anjor

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 02-01-2019

Acts Referred:

Indian Administrative Service (Recruitment) Rules, 1954 — Rule 8(1)

Citation : (2019) 01 CAT CK 0138

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

Bench : Division Bench

Advocate : V.S.R. Krishna, Gyanendra Singh, Nikhil Majithia

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J

1. The applicant is an officer of State Civil Service (for short, SCS) of Uttar Pradesh. The Indian Administrative Service (Recruitment) Rules, 1954, provide for appointment of SCS Officers holding the post of Deputy Collector or equivalent, to IAS, subject to certain conditions. This process of appointment of SCS Officers of UP to IAS did not take place for a period of 10 years between 2001-2010, for one reason or the other. A notification was issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training (DOPT) on 27.11.2012 in exercise of powers conferred under Rule - 8 (1) of the said Rules notifying the select list of SCS Officers of UP for the period referred to above. Lists were prepared year wise. The name of the applicant figured at Sl. No. 2 in the Select List of 2006. On the same day, DOP&T issued another notification notifying the appointment of Members of SCS to IAS against the vacancies of various years. In that list the name of the applicant did not figure. Several SCS Officers who were below the applicant in the Select List were promoted and appointed to IAS against the vacancies of the year 2006.

2. This OA is filed with a prayer to direct the respondents to include the name of the applicant for appointment to IAS for the panel year 2006, and to grant him consequential benefits.

3. The Respondent No. 2. i.e., the State of UP filed a counter affidavit. Since, it is not the appointing authority, nothing contained therein would have any direct bearing on the issue. Respondent No. 1 did not file any counter affidavit.

4. We heard Mr. V. S. R. Krishna, learned counsel for the applicant, Mr. Gyanendra Singh, learned counsel for respondent No.1 and Mr. Nikhil Majithia, learned counsel for respondent No.2.

5. It is a matter of record that the name of the applicant was included in the notification dated 27.11.2012, i.e., the Select List for the year 2006 at S. No. 2. In the normal course, once a Select List is prepared, the DPC is to be constituted, and depending on the recommendation of the DPC and availability of the vacancies, a final list is to be published. In the instant case, the exercise for the relevant years appears to have taken place regularly but the process did not reach finality for one reason or the other. Since, the Hon'ble Supreme Court took exception to the extraordinary delay in the matter, the notification containing the names of the selected officers was also issued on the same day, i.e., 27.11.2012. In the Select List of the year 2006, as many as 32 names appeared, whereas in the final list, we find 18 names. The name of the applicant and several other officers did not find place. In case the name of the applicant appeared in the Select List at the bottom there would have been a possibility to assume that he did not make up to selection. He figured at Sl. No. 2 and SCS Officers, far junior to him found place in the final list.

7. The applicant contends that on his verification, he came to know that his name was not included on account of the fact, he attained the age of superannuation by the time final list was prepared. His date of birth is 10.08.1952, and he retired from service on 31.08.2012 whereas the notification was issued on 27.11.2012. If this were to have been the reason, the final list should not have contained the names of any officers who crossed the age of 60 years as on 27.11.2012.

8. In the final list for the year 2004, we find that several officers retired nearly two years before 27.11.2012, but their names find place therein. For example, one Mr. Charan Jeet Singh Bakshi, an officer in the Select List of 2004 retired from service on 30.09.2012, but his name finds place in the final list. There are many such instances.

8. An issue of this nature was raised before the Hon'ble Supreme Court in WP No. 844/2013 filed by one Mahesh Chand Vs. Union of India & Anr. His name occurs at Sl. No. 16 in the Select List of the year 2006, far below that of the applicant. His date of birth is 15.01.1952. Compared to the applicant, he is older and retired earlier. Hon'ble Supreme Court allowed the writ petition and directed that the name of Mahesh Chandra shall be included in the final Select List of IAS

for the year 2006. Following the said order, this Tribunal also allowed OA No.4533/2011 vide order dated 23.09.2015 in the matter of Ramesh Chandani & ors. vs. Union of India & Ors. in respect of officers of the same Select List and figured in the same notification.

9. We, therefore, allow this OA and direct that the respondents shall include the name of applicant in the final Select List of IAS for the year 2006 in relation to UP State cadre. His pension shall be re-fixed by treating him as having retired in IAS. In case the pension is determined within three months from today, he shall not be entitled to any arrears that accrue up to that stage. If there is default, the feasibility of directing the payment of back wages would also be considered. There shall be no order as to costs.