

(2025) 10 DEL CK 1299

In the Delhi High Court

Case No : Writ Petition (C) No.15978 Of 2025, Civil Miscellaneous Application
Nos. 65387, 65388, 65389 Of 2025

Union Of India & Anr

APPELLANT

Vs

Amit Kumar Yadav & Ors

RESPONDENT

Date of Decision : 16-10-2025

Acts Referred:

Central Civil Services (Pension) Rules 1972 — Rule 48(1)

Citation : (2025) 10 DEL CK 1299

Hon'ble Judges : Navin Chawla, J; Madhu Jain, J

Bench : Division Bench

Advocate : Himanshu Pathak, Amit Singh, Syed Abdul Haseeb, Nasreen

Final Decision : Dismissed

Judgement

Navin Chawla, J

1. This petition has been filed, challenging the Order dated 29.04.2025 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. 1682 of 2021, titled Amit Kumar Yadav & Anr. v. Union of India & Ors., allowing the said O.A., filed by the respondents no. 1 & 2 herein, with the following directions:

"8. CONCLUSION :

8.1. In view of the above analysis, we allow the present OA by quashing and setting aside the impugned order dated 30.06.2020 only to the extent by which the applicants have not been considered for their promotion to the JAG along with their junior(s).

8.2. Further, we direct the respondents to grant promotion to the applicants in JAG w.e.f 30.6.2020, i.e., the date when their immediate junior(s) were promoted, albeit on notional basis. The consequential benefits shall also flow to the applicants in accordance with law.

8.3. The exercise, as ordained above, shall be completed by the respondents within a period of three months from the date of receipt of a certified copy of this order.

8.4. All pending M.A.s shall also stand disposed of. No costs.”

2. The respondent nos.1 and 2 had filed the above O.A., claiming therein that they were selected as Indian Ordnance Factories Service (IOFS) officer in 2006 batch. Although they were selected in 2007, their appointment letters were issued only on 30.04.2008, and they joined their duties on 30.06.2008. Another officer, namely Mr. Suhel Sidi, the respondent no. 3 herein, though junior to the respondent no. 1 and 2, was given the appointment letter earlier, pursuant to which he joined duties on 31.12.2007. The delay in issuance of the appointment letters to the respondent nos. 1 and 2 has been admitted by the petitioner to be not attributable to them but only to administrative reasons of the petitioner itself, like the time taken in the verification of documents, etc.

3. The respondent nos. 1 and 2 were aggrieved by the fact that, though respondent no. 3 was junior, he was promoted to the post of Junior Administrative Grade (JAG) vide Order dated 30.06.2020, after relaxation of the eligibility criteria, while the respondent no. 1 and 2 were declared ineligible for the same.

4. The learned Tribunal accepted the above challenge of the respondent nos. 1 and 2, by observing as under:

“7.1. The applicants are IOFS officers of 2006 Batch, the result of which was declared in July, 2007. They were given offer of appointment on 30.04.2008 and they joined service on 30.06.2008 whereas their junior officer, namely, Mr. Suhel Sidi was given offer of appointment earlier to them and allowed to join his duties on 31.12.2007. As per the seniority list of Indian Ordnance Factories Service (IOFS) Officers as of 01.01.2019, applicant No. 1 is ranked at Serial No. 69 and applicant No. 2 is ranked at Serial No. 68, whereas respondent No. 4, Mr. Suhel Sidi, is ranked at Serial No. 70, indicating that the applicants are senior to Mr. Suhel Sidi. However, vide impugned order dated 30.6.2020, Mr. Suhel Sidi has been promoted to the post of JAG but the case of the applicants have been ignored due to the fact they were given offer of appointment on 30.4.2008 and they joined on 30.06.2008, i.e., six months after Mr. Suhel Sidi, who joined on 31.12.2007. It is the contention of the respondents that the applicants have not fulfilled essential qualifying service of more than two years.

7.2. No explanation is coming forth from the respondents for the delay in issuing offer of appointment to the applicants until 30.04.2008, while Mr. Suhel Sidi, received his offer of appointment earlier to the applicants and joined on 31.12.2007, despite their being selected in the same batch. Furthermore, it is undisputed that the applicants have been consistently shown as senior to Mr. Suhel Sidi throughout their service career. The delay in issuing offer of appointment cannot be attributed to the applicants in any way.

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7.6. There is no denial to the fact by the respondents that in the above-stated DPC/SDPC name of one of the eligible officers, namely Mr. Jiwan Lal, was not included in the eligibility list of the vacancy year 2019 owing to the fact that he had been recommended for premature retirement under FR 56 (j) and Rule 48 (1) of CCS (Pension) Rules 1972. Mr. Jiwan Lal was otherwise completing the eligibility criteria of having 13 years Gr 'A' service and 04 years in STS as on 01.01.2019 as per the relevant RRs. However, after due consideration of the representation submitted by Mr. Jiwan Lal, the Department recommended him for continuing his service. With this, the Department decided to include the name of Mr. Jiwan Lal in the Eligibility list for the year 2019. The respondents also stated that the junior/senior clause as enunciated in the relevant RRs, inter alia, provides that "Where Juniors who have completed their qualifying/eligibility Service are being considered for promotion, their seniors would also be considered provided they are not short of the requisite qualifying/eligibility Service by more than half of qualifying/eligibility Service or two years whichever is less". A maximum relaxation of 2 years is available under the jr/sr. clause. The decision of the Department to include Mr. Jiwan Lal in the Eligibility list also held 20 more senior STS officers eligible for the V.Y. 2019 under Jr/Sr clause, who were otherwise short of the requisite qualifying service by less than 2 years. Accordingly, the Department submitted a Review DPC proposal along with the revised eligibility list for the vacancy year 2019 by adding the names of 21 more STS Officers including the name of Mr. Jiwan Lal. Furthermore, it has been contended on behalf of the respondents that some of the senior officers to Mr. Jiwan Lal, including the names of the applicants, were not eligible for consideration under the junior senior clause as they were short of the requisite qualifying service by more than 2 years.

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7.9. In the present case, the issue does not involve a comparison between direct recruits and promotees. It is undisputed that granting relaxation is a discretionary concession. However, the respondents have not denied that no such relaxation was given to the applicants' juniors, Mr. Jiwan Lal and Mr. Suhel Sidi. This discriminatory treatment, resulting from the delayed offer of appointment, has led to an arbitrary decision that unfairly penalizes the applicants, despite being direct recruits from the same batch. The respondents have failed to provide a plausible explanation for this disparity. Moreover, the respondents have not contested the fact that if the applicants had joined on the same date as Mr. Suhel Sidi, i.e., on 31.12.2007, they would have received equal treatment and opportunities. Furthermore, the juniors' promotion was w.e.f. 30.06.2020 and not retrospective."

5. The learned counsel for the petitioners submits that the respondent nos. 1 and 2 were considered by the review D.P.C., however, were found to be ineligible for promotion as they did not qualify for the same even by extending the maximum

period of relaxation of service. He submits that, therefore, no fault could have been found with the DPC for not recommending the respondent no. 1 and 2 for promotion, while, at the same time, granting promotion to respondent no. 3, who met the required criteria by grant of relaxation.

6. He submits that in terms of SRO No. 227 dated 01.10.2002 and SRO No. 01(E) dated 21.02.2014, the officer has to complete 13 years of Group 'A' service with four years in the Senior Time Scale (STS) and equivalent including the service rendered in the STS (Non-functional), or nine years in the STS grade and equivalent including regular service in the STS (non-functional) and equivalent in the pay scale of Pay Band-3, Rs. 15,600-39,100 plus Grade Pay of Rs. 7600. Relaxation in the said condition can be granted only for a maximum of two years. As the respondent nos. 1 and 2 were short of the qualifying service by more than two years, they were, therefore, ineligible for being considered for the post of JAG.

7. We have considered the submissions made by the learned counsel for the petitioners. However, we find no merit in the same.

8. Admittedly, the respondent nos. 1 and 2 are senior to respondent no. 3 in the selection process. It was only because of the administrative reasons of the petitioners, that the respondent no. 3 was issued the appointment letter before the same could be issued to respondent nos. 1 and 2. It is not the case of the petitioners that the delay was caused by respondent nos. 1 and 2 in any manner.

9. Given the above, in our view, the learned Tribunal has rightly given the above directions to the petitioners.

10. We, therefore, find no merit in the present petition. The same, along with the pending applications, is dismissed.

11. We, however, extend the period for compliance with the above directions of the learned Tribunal, by eight weeks.