

No.14014/23/2005-AIS-I
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

North Block, New Delhi
Dated 15th July 2014

ORDER

Whereas Smt. Manmeet Kaur Nanda had qualified Civil Services Examination (CSE) 1999 and on that basis she was allocated to IAS Cadre of West Bengal;

Whereas the Foundation Course (FC) for candidates allocated to IAS on the basis of CSE 1999 commenced on 4.9.2000 but Smt. Nanda could not join the same as she was in family way and due to certain complications, the Doctors had advised her to complete bed rest till delivery which was due in March 2001;

Whereas on her request, in consultation with Director, LBSNAA, this Department with the approval of the competent authority permitted Smt. Nanda to join FC with the officers of subsequent batch i.e. 2001 from September 2001 **with the condition that her seniority in IAS would be depressed as per seniority rules given below by one year** i.e. from the year 2000 to the year 2001 in terms of the following proviso of Rule 3(3)(i) of IAS(Regulation of Seniority) Rules, 1987:-

“Provided that if a direct recruit officer is permitted to join probationary training under Rule 5(1) of the IAS (Probation) Rules, 1954, with direct recruit officers of a subsequent year of allotment, then he shall be assigned that subsequent year as the year of allotment.”

Whereas Since then Smt. Nanda has been representing to this Department for restoration of her seniority in IAS on the ground that she could not join FC alongwith the officers of 2000 batch (CSE 1999) due to compelling medical reasons beyond her control;

Whereas initially representations were examined and rejected. However, her representation dated 28.4.2006 was examined in detail and the competent authority on 3.11.2006 decided to invoke the powers conferred in him under Rule 3 of AIS (Conditions of Service-Residuary Matters) Rules, 1960 to relax the above mentioned proviso and to restore the seniority of Smt. Nanda;



Whereas as decided by the competent authority, before issue of the formal order in this regard notices were issued to those officers whose seniority would have been adversely affected by restoration of seniority/year of allotment of 2000 to Smt. Nanda. Nine officers had represented against the proposal of restoration of seniority of Smt. Nanda. The main contentions raised by them included the following:-

- (i) Smt. Nanda was required to join the Foundation Course alongwith 2000 batch officers whereas she did not join the same with 2000 batch officers. She completed her Probationary Training with officers of the subsequent batch. Moreover, it is not appropriate to club the marks of Probationary Training of one year and the marks obtained in Foundation Course of some other year. She should complete with the same batch officers in order to be assigned the year of allotment of 2000. If she is assigned the year of allotment of 2000 the rights of many officers will be superseded.
- (ii) The Residuary Matters Rules should be invoked only if the application of existing rules causes undue hardship to a candidate. Instead, if she is assigned 2000 batch with seniority of ranking of Sl. No. 14-A it would cause undue hardship and feeling of injustice and inequity to other Members of the service who are to be affected by this decision.
- (iii) One officer while opposing the proposal for restoration of seniority had submitted that if at all Smt. Nanda has to be given the 2000 batch in that case she should be placed at the last rank in the seniority of 2000 batch. This will be in line with other cases where a later allottee to any State cadre is kept at the last rank in the State Civil List of that batch on the grounds of marriage between All India Service officers or any other basis.

Whereas after receipt of above representations, draft order restoring the seniority of Smt. Nanda was put up for consideration which was finally not approved by the competent authority and thus the said representation was also rejected and decision was conveyed to the officer through Government of West Bengal in the year 2007;

Whereas in the year 2012, Ms Nanda made renewed efforts for restoration of her seniority pleading that circumstances in her case were compelling preventing her from joining the training;

Whereas while considering the fresh representation of Smt. Nanda it was observed that the same has merit and accordingly it was decided by the competent authority to amend the said proviso to Rule 3(3)(i) of IAS(Regulation of Seniority) Rules, 1987 and give coverage inter-alia to case of Smt. Nanda under proposed amendment.



Whereas having obtained the views of State Governments, MHA, UPSC, Department of Legal Affairs and Legislative Department, amendment notification with the approval of the competent authority has been issued on 15.5.2014, which reads as under:-

“Provided that if a direct recruit officer is permitted, on the valid reasons to be recorded in writing, to join probationary training under sub-rule(1) of rule 5 of the Indian Administrative Service (Probation) Rules, 1954, with direct recruit officers of subsequent year of allotment, then the year of allotment of the said officer shall be the year following the year in which that officer’s competitive examination was held and the said officer would be placed at the bottom of All India gradation list and also at the bottom of State gradation list of that year.”

Whereas, as mentioned above after issue of the said amendment, the matter relating to restoration of seniority of Smt. Nanda by giving coverage under amended Rules has been examined and the following points have been observed by this Department:-

“The above amendment of 15/5/2014 has its origin in Smt. Nanda’s representation. Smt. Nanda was selected in IAS on the basis of CSE 1999. She could not join the Foundation Course training along with her batch-mates as she was in the advance stage of pregnancy. Accordingly, she was exempted by DOP&T to attend the training along with the subsequent IAS batch. However, following the pre-May 2014, Seniority Rules, she was given the 2001 batch, instead of 2000 batch which would have been the case had the May 2014 Seniority Rules existed in 1999. She made a representation before DOP&T, and DOP&T found merit in her argument and amended the Rule (3) (3) (i) proviso on 15/5/2014. Since the amended rule of May 2014 has prospective effect, Smt. Nanda could not avail of the benefit of the amended rules. As per the Civil List 2014, Smt. Nanda is placed with DR IAS officers of 2001 batch at 55th position. She was not given 2000 as her year of allotment in IAS although her cadre allocation (to West Bengal) was made based on the fact that she belongs to 2000 batch of IAS. It is not very clear how she was placed at 55th position with 2001 batch, as the CSE 1999 and CSE 2000 are different examinations and Smt. Nanda’s marks in CSE 1999 are not comparable with these of the DR IAS officers of CSE 2000. Thus, there are apparent contradictions in the approach in her case.




In addition, there was a hardship faced by Smt. Nanda, as medically she was incapable (due to her advance stage of pregnancy) to join the Foundation Course training in 2000 along with her batchmates. She was, of course, given exemption by DOP&T, but with depressed seniority. To correct the kind of approach (i.e., the case of depressed seniority), the DOP&T amended in May 2014 the Seniority Rules allowing an IAS officer to retain his/her seniority in case of valid exemption by the Competent Authority, from attending the Foundation Course training with his/her batchmates. As stated earlier, the basis of the amendment is, *inter alia*, the representation (2012) of Smt. Nanda for restoring her seniority to the year 2000, instead of depressing it by one year, to 2001, as is the current position. In the representation, she pleaded that circumstance in her case was compelling preventing her from joining the training and due to strict application of pre-May 2014 Seniority Rules, she is facing undue hardship in terms of depression of her seniority by one year."

Now therefore, in view of above facts & circumstances of the case, in order to deal with the case in just and equitable manner, the competent authority has invoked the power conferred in him under Rule 3 of AIS (Condition of Service – Residuary Matter) Rules, 1960 for relaxing the proviso to Rule (3)(3)(i) proviso of IAS (Regulation of Seniority) Rules, 1987 existing prior to 15th May 2014 and has decided to place Smt. Nanda at the bottom of the All India gradation List and also at the bottom of the State gradation List of IAS officer of 2000 batch. This relaxation is exactly on the similar lines as that of amended proviso to Rule (3) (3) (i) of IAS (Regulation of Seniority) Rules, 1987 issued on 15th May 2014.

To the above extent this order supersedes the earlier order whereby Smt. Nanda was placed at 55th position in the All India gradation List of 2001 batch of IAS.

(By and in the name of President of India)


(S.S. Shukla)

Under Secretary to the Government of India

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