

No.14014/29/2005-AIS-1
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

North Block, New Delhi,
Dated the 30th June, 2016.

ORDER

Whereas, Dr. P. Lakshmi Narasimham and Shri P. Satyanarayana Reddy were appointed to IAS by selection under Non-SCS category for the Select List 2007 vide this Department's notification No.14015/01/2007-AIS(I)-A dated 22.2.2008 and were assigned 2003 as year of allotment vide letter of even number dated 18.9.2008.

And whereas, the seniority of Shri P. Satyanarayana Reddy was restricted as per first proviso to Rule 3(3)(iii) of the IAS(Regulation of Seniority) Rules, 1987.

And whereas, the Government of Andhra Pradesh informed that earlier vide State Government G.O. M.S.No.634, GA (Spl.A) dated 24.8.2007 it was declared that all the posts that carry the scale of Rs 10,845-22,955 and above with 8 years of continuous service in substantive capacity in that scale are equivalent to the post of deputy collector in the State Civil Service.

And whereas, Subsequently, based on the orders of Hon'ble High Court dated 23.11.2010 in WP No.2430 of 2010, the State Government have issued orders vide GO Ms. No.524, GA (Spl.A) Deptt. dated 27.8.2011 superseding the orders issued in GO MS. No.634, dated 24.8.2007 which now provides that all the posts covered under Group. I service be made equivalent when the officers working in such posts completes 8 years of continuous service after reaching the basic pay of Deputy Collector and above.

And whereas, Dr. P. Lakshmi Narasimham, IAS in his representation has Inter-alia stated that the revision of seniority reckoning the service put in from the date of his initial appointment in the cadre of Deputy Registrar of Cooperation Department i.e. from 1987 and revise the year of allotment from existing 2003 to 2001 by computation of seniority of over 20 years in the Group-I service cadre. He has also represented that all other officers selected from Cooperative Department and other Departments like Municipal Administration prior to him and conferred IAS under Non-SCS quota, the seniority was counted from initial appointment as Deputy Registrar or Municipal Commissioner, Gr.III and given seniority accordingly. It is further contended that the scale of pay of Municipal Commissioner Gr.III was less than that of Deputy Registrar.

And whereas, the Hon'ble CAT vide its order dated 5.6.2015 in OA No. 1146/2013 & MA No.00381/2014 filed by Dr P. Lakshmi Narasimham, IAS has directed the 1st Respondent (DoPT) to consider his representation of the applicant dated 16.09.2013 submitted by the 2nd and 3rd respondents (State Government of Andhra Pradesh) within a period of 2 months from the date of receipt of a copy of this order and communicate the results to the applicant within a period of two weeks thereafter".

And whereas, the copy of the said OA or the order of the Hon'ble Tribunal has not been received in this Department.



And whereas, in view of the above, the State Government has requested this Department to re-fix the seniority of the said officers by taking the continuous service rendered by them from 16.7.1987 and 16.6.1987 respectively and assign 2001 as the year of allotment instead 2003.

And whereas, the matter was earlier examined in this Department and State Government was requested vide this Department's letter dated 9.7.2013 to furnish the revise statement indicating the date of continuous service rendered by the said officers in a post equivalent to the post of Deputy Collector or a higher post and confirm that if the seniority /year of allotment of above officers is re-fixed, it will not violate proviso to the rule 3(3)(iii) of IAS (Regulation of Seniority) Rules, 1987.

And whereas, the State Government has provided the requisite information. However, it has not confirmed that there is no violation of proviso to the rule 3(3)(iii) of IAS (Regulation of Seniority) Rules, 1987 and it will not lead to further anomalies.

And whereas in compliance of the order of the Hon'ble Tribunal, the representations of the applicants has been reconsidered. However it is observed that the conditions of service of officers appointed to the All India Service are regulated by the All India Service Act, 1951 passed by the Parliament under the Article 312 of the Constitution and the rules and regulations framed thereunder.

- (i) Regulation 2(j)(ii) of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 state as under:

"2(j) "State Civil Service" means,

(ii) in all other cases, any service or services, approved for purposes of the Recruitment Rules by the Central Government in consultation with the State Government, a member of which normally holds, for purposes of revenue and general administration, charge of a sub-division of a district or a post of higher responsibility."

- (ii) Further fourth proviso to Regulation 5(2) of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 state as under:

"Provided also that the Committee shall not consider the case of a member of the State Civil Service unless, on the first day of January of the year for which the Select List is prepared he is substantive in the State Civil Service and has completed not less than eight years of continuous service (whether officiating or substantive) in the post of Deputy Collector or in any other post or posts declared equivalent thereto by the State Government".

- (iii) Rule 3(3) (iii) of IAS (Regulation of Seniority) Rules, 1987 state as under:-

"The year of allotment of a promotee officer shall be determined with reference to the year for which the meeting of the Committee to make selection, to prepare the select list on the basis of which he was appointed to the Service, was held and with regard to the continuous service rendered by him in the State Civil Service not below the rank of a Deputy Collector or equivalent, up to the 31st day of December of the year immediately before the year for which meeting of the Committee to make selection was held to prepare Service, in the following manner.....:"



And whereas, attention is invited to second proviso to rule 3(3)(iii) of the IAS (Regulation of Seniority) Rules, 1987 which reads as under:-

"provided further that he shall not be allotted a year earlier than the year of allotment assigned to an officer already appointed to the service in accordance with sub-rule (1) of rule 8 of the recruitment rules, whose length of Class-I continuous service in the State Civil Service is equal to or more than the length of Class I continuous service of the former in connection with the affairs of the state."

And whereas, the matter was examined in consultation with the officers of the State Governments of Andhra Pradesh and Telangana and it is felt that the order dated 27.08.2011 can not be made applicable retrospectively in this case. Further, re-fixation of seniority of these officers would amount to violation of Rule 3(3)(iii) of IAS(Regulation of Seniority) Rules, 1987 and unsettle the settled cases. It would also lead to re-fixation of seniority of all the officers appointed by subsequent Select Lists.

And whereas, the Hon'ble Principal Bench of CAT in its order dated 28.09.2016 passed in C.P. No.524/2015 in OA No.3834/2010 filed by Shri Alok Awasthi vs. UOI on similar issues has held that the equivalence of the post of Assistant Director, Public Relations to the post of Deputy Collector in the State Civil Services of Madhya Pradesh has been declared only on 22.05.2010 by a notification and that notification was not available when the case of the petitioner was considered for his promotion by Selection to the IAS cadre. Accordingly, the Hon'ble Tribunal ordered to close the Contempt Petition since the Department has already issued a speaking order.

Now therefore, in compliance of the order dated 05.06.2015 of Hon'ble CAT Hyderabad Bench in OA No.1446 of 2013 in the matter of Dr. P. Lakshminarasimham Vs Union of India and others, it has been concluded that service rendered by Dr. Lakshminarasimham in the post of Deputy Registrar of Cooperative Department cannot be counted towards determining the seniority under Rule 3(3)(iii) of IAS(Regulation of Seniority) Rules as this post was not equivalent to the post of Deputy Collector at the time of his induction into IAS. Hence, his seniority w.e.f. 01.07.1995 i.e. the date from he was holding the post equivalent to that of Deputy Collector on continuous basis has rightly been determined as per rules.

In view of the above facts, the representation of the applicants have been reconsidered and not found to be accepted as the same are not in accordance with rules and regulations governing All India Service as stated above.

Ordered accordingly.


(Udai Bhan Singh)
Under Secretary to the Government of India

1. The Chief Secretary, Government of Andhra Pradesh, Hyderabad.
2. The Chief Secretary, Government of Telangana, Hyderabad.
3. Dr. P. Lakshminarasimham, IAS (through Chief Secretary, Government of Andhra Pradesh), Hyderabad.
4. Shri Satyanarayana Reddy, IAS (through Chief Secretary, Government of Andhra Pradesh), Hyderabad.
5. US (S-II)/AIS (III)
6. EO (PR)/RO (CM)
7. ✓ NIC, for uploading on the DoPT's website.