

No. 14014/4/2004-AIS-I
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

North Block, New Delhi
Dated the 17th January 2014

ORDER

Whereas Aksay Kumar Pani was appointed to IAS vide notification dated 24.2.2011 on the basis of inclusion of his name in the select list of 2009 prepared against the vacancies of 2009;

and whereas having regard to his date of continuous service in the post of Deputy Collector or equivalent as furnished by Government of Orissa he was given weightage of 9 years for the purpose of fixation of seniority in IAS and accordingly Shri Pani was assigned year of allotment of 2000;

and whereas aggrieved by year of allotment of 2000 Shri Pani had filed OA No. 433/ contending that as notification for amendment of the IAS (Regulation of Seniority) Rules, 1987 was published in the Gazette of India on dated 18.4.2012, the amendment rules may not be considered as applicable to the Odisha State Civil Service Officers who were appointed to the IAS by promotion on 24.2.2011, from the select lists of 2006A, 2007, 2008 & 2009.

and whereas Hon'ble Tribunal vide its order dated 11.7.2013 has disposed of the OA with the following directions:-

"It is the specific case of the Applicant that the representation dated 8.6.2012 at Annexure A/5 is still lying with Respondent No. 2. Since on consideration of the representation of an employee, if the authority is convinced that injustice has rally occasioned in the decision making process of the matter, the competent authority is well within this competence to remove the same. Since, representation of the applicant is still pending, for the discussions made above, we find no justifiable reason, at this stage, to keep this matter pending by allowing the Respondents to file their counter if any. Hence, as agreed to by Learned Counsel for both sides, without entering into the arena of merit of the matter, this OA is disposed of at this admission stage with direction to the Respondent No. 1 to consider and dispose of the representation dated 8.6.2012 at Annexure A/5 in the light of the above observation and intimate the result therefore "in a well reasoned order to the Applicant within a period of sixty days from the date of receipt of copy of this order. If in the meantime the said representation has already been disposed of but the result has not been intimated to the Applicant, the result shall be intimated to the applicant with in a period of thirty days hence. There shall be no order as to costs".



As prayed for, copy of this order along with OA be sent to Respondent No. 1 & 2 by speed post at the cost of the Applicant; for which Mr. Kanungo, Learned counsel for the Applicant undertakes to furnish the required postal requisite within three days hence."

and whereas in pursuance of directions of the Hon'ble Tribunal, the contention of Shri Pani made in the OA has been considered and it has been observed that in pursuance of Punjab and Haryana High Court order dated 1.2.2010 as confirmed by Hon'ble Supreme Court vide order dated 31.5.2010 select lists came to be preponed by a year coinciding with the year of the occurrence of the vacancies;

and whereas due to preponement and weightage formula prevailing prior to decision of Praveen Kumar case, the officers came to get additional year in their year of allotment in IAS which was neither the subject matter of the writ petition before Punjab and Haryana High Court/Supreme Court nor the same was granted by the Hon'ble High Court;

and whereas in order to ensure that judgment in Praveen Kumar case the promotee IAS officers do not get additional year in their year of allotment in IAS vis-à-vis their seniors appointed on the basis of earlier select list(s) and direct recruits, in consultation with other CCAs viz MHA, M/o E&F, State Governments, Department of Legal Affairs, it was decided to suitably amend the provisions of regulations of seniority rules;

and whereas notification in this regard was issued on 18.4.2012 with stipulation with the same would be applied for the purpose of fixation of seniority in respect of all those select lists which are prepared in accordance with the ratio laid down by Punjab and Haryana High Court and Supreme Court in the matter of Praveen;

and whereas in this case, select list of 2009 was prepared in accordance with the ration laid down in Praveen Kumar case meaning thereby it was styled with the year coinciding year of occurrence in vacancies and accordingly the officers who were appointed to IAS on the basis of this select list have been given weightage in accordance with amended rules;

and whereas, in case of the officers appointed to IAS on the basis of Select List of 2009 is concerned it has been observed that said select list was prepared against the vacancies of 2009 and thus not styled coinciding with the year of occurrence of vacancies;



and whereas in respect of officers appointed to IAS on the basis of select list of 2009 weightage was duly calculated in accordance with seniority rules prior to 18.4.2012;

and whereas due to preponement of select list of one year and with the fixation of seniority as per amended seniority rules on 18.4.2012, the said officer has got the same year of allotment in IAS, what he would have got prior to Praveen Kumar case as would be evident from the following Table:-

Fixation of seniority /year of allotment as per pre-amended Rules

Select list of 2010 as per pre-amended Rules

Sl.No.	Name of the Officer (S/Shri/Smt)	Date from which holding rank not below that of Dy Collector in SCS or equivalent	Year of select list	Completed year of service rendered in the rank not below that of Dy. Collector in SCS or equivalent till 31 st December of the previous year for which the meeting of the committee to make selection was held to prepare the Select List on the basis of which the said officers were appointed to IAS (Fractions if any, are to be ignored) i.e. on 31.12.2009.	Total weightage in years in terms of the IAS (Regulation of Seniority) Rules, 1987 before amendment dated 18.4.2012.	Year of allotment entitled	Year of Allotment assigned
1.	Aksay Kumar Pani	18.7.1979	2010	30	10	2000	2000

Fixation of seniority /year of allotment as per amended Rules

Select list of 2009 as per amended Rules

Sl.No.	Name of the Officer (S/Shri/Smt)	Date from which holding rank not below that of Dy Collector in SCS or equivalent	Year of select list	Completed year of service rendered in the rank not below that of Dy. Collector in SCS or equivalent till 31 st December of the previous year for which the meeting of the committee to make selection was held to prepare the Select List on the basis of which the said officers were appointed to IAS (Fractions if any, are to be ignored) i.e. on 31.12.2009.	Total weightage in years in terms of the IAS (Regulation of Seniority) Rules, 1987 before amendment dated 18.4.2012.	Year of allotment entitled	Year of Allotment assigned
1.	Aksay Kumar Pani	18.7.1979	2009	30	9	2000	2000



and, now therefore, in view of the above the contention of the above officer have not been found to be acceptable and the representation is rejected by the Competent Authority;


(S.S. Shukla)

Under Secretary to the Government of India

1. The Chief Secretary, Government of Odisha for onward transmission to the officer concerned.
2. The Accountant General, Odisha, Bhubaneswar.
3. US (S-I)/AIS (III)/EO (PR)/RO (CM)/Guard File
4. ✓ NIC for uploading on the DOPT, s website.