

No. 14015/22/2012-AIS (I)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

New Delhi, 21st November, 2016.

ORDER

WHEREAS, inter-alia the name of Smt. Kusum Sharma, a State Civil Service of Uttar Pradesh was included at Sl. No. 1 in the Select List 2006 approved by the Union Public Service Commission on 26.11.2012 for promotion to IAS Cadre of Uttar Pradesh:

AND WHEREAS, this Department inter-alia notified the said Select List of 2006 vide notification No. 14015/22/2012-AIS.I(A) dated 27.11.2012.

AND WHEREAS this Department also notified appointments of unconditionally included officers therein and who were in service at that relevant point of time vide notification no. 14015/22/2012-AIS.I (B) dated 27.11.2012;

AND WHEREAS, while considering the appointment of SCS officers included in the aforesaid Select Lists to IAS cadre of Uttar Pradesh it was observed that Smt. Kusum Sharma (Date of Birth: 03.06.1952) after attaining their age of superannuation, i.e. 60 years had already retired from the State Civil Service;

AND WHEREAS, it was observed that in terms of Regulation 9(1) of IAS (Appointment by Promotion) Regulations, 1955 only a member of the State Civil Service could be appointed to IAS;

AND WHEREAS, it was observed that Smt. Kusum Sharma, who had since retired from the State Civil Service on the date of notification , had ceased to be a member of the SCS;

AND WHEREAS, in view of the above rule position appointment of Smt. Kusum Sharma to IAS could not be notified;

AND WHEREAS, aggrieved by her non appointment to IAS, Smt. Kusum Sharma filed OA No 332/304/2014 before the Hon'ble CAT, Lucknow Bench, Lucknow.

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AND WHEREAS, the Hon' ble Tribunal, vide its judgement dated 26.05.2016 has allowed the OA with directions as under:

" 9. As the fact and circumstances of the present case is similar to the facts and circumstances as evident in the writ petition No. 844/2013, the OA is disposed of with the direction to the respondent no. 1 to extend the benefits of the said writ petition in the case of the applicant within two months from the date of receipt of copy of this order. No. Costs."

AND WHEREAS, it was observed that in the above referred judgement, the Hon'ble Supreme Court of India vide order dated its order dated 18.10.2014 in WP (C) No. 844 of 2013 with IA No. 1/2013 directed as under:

" Ms Tamta, learned counsel appearing for Union of India is not in a position to dispute the same and, therefore, we direct that the present petitioner shall be deemed to have been appointed to Indian Administrative Service, cadre of Uttar Pradesh with all consequential benefits on the basis of inclusion of his name in the Select List of 2006, not later than to his immediate junior, namely, Mr. Vinay Priya Dubey, who has been appointed to IAS Cadre on the basis of the same select list of 2006. It is hereby made clear that date of appointment of Mr. Vinay Priya Dubey shall be the governing factor for grant of extension of benefit to the petitioner. The benefit be extended within a period of three months hence.

At this juncture, we may note that I.A. No. 1/2013 has been filed by one Mr. Krishna Kant Shukla for impleadment on the ground that he is senior to the present petitioner and similarly situated. If that is so, the Union of India shall be well advised to extend the benefit to Krishna Kant Shukla on the same parameters so that the Central Government can set an example how a litigation can be avoided.

The writ petition and the IA No. 1/2013 stands disposed of on the above terms. There shall be no order as to cost."

AND WHEREAS, the Hon'ble Supreme Court in its above order has recorded the appointment of Shri Ram Naval Singh (who had retired from the State Civil Service) on the basis of court case Union of India and Anr. V. Hemraj Singh Chauhan & Ors. (2010) 4 SCC 290 wherein a view was expressed in favour of the respondents after repelling the contentions raised by the Union of India.



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NOW THEREFORE, in pursuance of directions of Hon'ble Supreme Court contained in the order dated 18.10.2014 in WP (C) No. 844 of 2013 with IA No. 1/2013 Smt. Kusum Sharma will be deemed to have been appointed to IAS Cadre of Uttar Pradesh with all consequential benefits on the basis of inclusion of here name at Sl. No. 1 in the Select List of 2006 not later than her immediate junior namely Sh. Shiv Shankar Singh appointed to IAS on the basis of the same Select List of 2006.

(By order and in the name of the President).



(Pankaj Gangwar)

Under Secretary to the Government of India

Copy to:

1. The Chief Secretary, Govt. of Uttar Pradesh, Lucknow.
2. Smt. Kusum Sharma, through Chief Secretary, Govt. of Uttar Pradesh, Lucknow.
3. The Secretary, Union Public Service Commission, Dholpur House, New Delhi (Kind Attn. : Sh. S.P. Singh, Deputy Secretary, AIS).

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