



2025:DHC:3618-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 2175/2025, CM APPLs. 10280/2025 & 10281/2025
UNION OF INDIAPetitioner

Through: Mr. Mukul Singh, CGSC with
Mr. Bharat Singh, GP for UOI.

versus

MOHAN LAL AND ANR.Respondents
Through: R-1 in person.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

20.02.2025

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C.HARI SHANKAR, J.

1. The Union of India, by means of the present writ petition, seeks to assail judgment dated 25 October 2024, passed by the Central Administrative Tribunal¹ in OA 711/2018². The Tribunal has, by the impugned judgment, allowed the OA in the following terms:

“29. Accordingly, the present OA is allowed with following directions:-

- i. Order dated 16.08.2018 is quashed and set aside;
- ii. The applicant is entitled for Super Time Scale (L-14 in the Pay Matrix) promotion w.e.f. 01.01.2017 if he is otherwise suitable.
- iii. The respondent no. 2 is directed to fix the pay,

¹ “the Tribunal”, hereinafter

² **Mohan Lal v UOI and Anr.**



pension, revised pension, gratuity, leave encashment, difference of commutation of pension etc. and make payment to the applicant within eight weeks from the receipt of certified copy of this Order. While making payment, the respondents shall pay interest on the due payments at the rate applicable on GPF.

iv. No order to cost. Pending MAs, if any, stand closed.”

Facts

2. Respondent 1 Mohan Lal is a 1984 batch Officer of the Delhi and Andaman and Nicobar Islands Civil Service³. Vide Notification dated 24 November 2011 issued by the Department of Personnel and Training⁴, Respondent 1 was inducted in the Indian Administrative Service⁵ against the select list of 2009. Vide DOPT notification dated 22 November 2012, Respondent 1 was assigned 2002 as his year of allotment in the IAS. By order dated 13 February 2014, he was promoted to the Junior Administrative Grade⁶ with effect from⁷ 1 January 2011. By order dated 3 July 2015, Respondent 1 was promoted to the Selection Grade w.e.f. 1 January 2015. Respondent 1 superannuated on 31 January 2017.

3. It is not in dispute that, as on 31 January 2017, when Respondent 1 was still in service, there were 24 vacancies available in the Super Time Scale, to which an officer becomes admittedly eligible w.e.f. the 1st day of January of the year in which the officer completes 16 years of service from induction in the IAS, which would be

³ “DANICS”, hereinafter

⁴ “DOPT”, hereinafter

⁵ “IAS”, hereinafter

⁶ “JAG”, hereinafter

⁷ “w.e.f.” hereinafter



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dependent on the year of allotment. If Respondent 1's year of allotment were to be reckoned as 2002, as was fixed by the DOPT notification dated 22 November 2012 (*supra*), therefore, Respondent 1 would not have been eligible for being granted the Super Time Scale on the date of his retirement, as he would become eligible only on 1 January 2018.

4. Consequent to certain judicial pronouncements, the year of allotment of Respondent 1 was, by orders dated 24 August 2017 and 29 August 2017, advanced to 2001, from the pre-existing 2002. If Respondent 1's year of allotment in the IAS were to be regarded as 2001, it is an admitted position that he would be eligible for promotion to the JAG w.e.f. 1 January 2010 (instead of 1 January 2011, w.e.f. which date he had been promoted to the JAG by order dated 13 February 2014), and to the selection grade w.e.f. 1 January 2014 (instead of 1 January 2015, w.e.f. which date he had been promoted to selection grade by order dated 3 July 2015) and to the Super Time Scale w.e.f. 1 January 2017.

5. Consequent to the advancing of the year of allotment in the IAS of Respondent 1 from 2002 to 2001, a Review Screening Committee met on 6 September 2017, to reconsider the promotion of Respondent 1 to the JAG, selection grade and super time scale. The Review Screening Committee found Respondent 1 to be entitled to promotion to the JAG w.e.f. 1 January 2010 and to the selection grade w.e.f. 1 January 2014, in view of his revised year of allotment. However, the Review Selection Committee did not recommend Respondent 1 for promotion to the Super Time Scale w.e.f. 1 January 2017 on the



ground that the Super Time Scale was a functional grade and Rule 3(2)(iv)⁸ of the Indian Administrative Service (Pay) Rules, 2007⁹ entitled an officer to the pay of posts at and above the Selection Grade only on appointment to the posts. The Review Selection Committee, therefore, was of the view that the Super Time Scale was a functional grade, and an officer to be entitled to draw pay in the Super Time Scale, had to be available for promotion to the said scale so that he could commence discharging duties in the said grade on the date w.e.f. which he was recommended for promotion thereto. Though the eligibility of Respondent 1 for promotion to the Super Time Scale as on 1 January 2017 was not disputed, the Review Screening Committee was of the view that as he had superannuated on 31 January 2017, and the Review Screening Committee met only on 6 September 2017, Respondent 1 would not be available to discharge duties in the Super Time Scale even if he were to be promoted to that grade. This according to the Review Screening Committee *ipso facto* disentitled Respondent 1 to promotion to the Super Time Scale.

6. As has been noticed by the Tribunal in the impugned judgement, the 2007 Pay Rules were amended by the Indian Administrative Service (Pay) Rules, 2016¹⁰, and Rule 3(2)¹¹ of the

⁸ (iv) A member of the Service shall be entitled to draw pay in the scales of Selection Grade and above only on appointment to these grades.

⁹ “the 2007 Pay Rules” hereinafter

¹⁰ “the 2016 Pay Rules”, hereinafter

¹¹ 3 (2)(i) Appointment to the Selection Grade and to posts carrying pay above Selection Grade in the Indian Administrative Service shall be made by selection on merit, as per criteria that may be prescribed by the Central Government, with due regard to seniority.

(ii) Appointment of a member of the Service in the Level of Selection Grade and above shall be subject to availability of vacancies in these grades and for this purpose, it shall be mandatory upon the State Cadres or the Joint Cadre Authorities, as the case may be, to seek prior concurrence of the Central Government on the number of available vacancies in each grade and any appointments made without obtaining the prior concurrence of Government of India shall be liable for cancellation.

(iii) The Central Government shall accord such concurrence within a period of thirty days from the date of receipt of such references and if the Central Government does not accord concurrence within a period of



2016 Pay Rules did not contain any clause similar to Rule 3(2)(iv) of the 2007 Pay Rules.

7. On 21 October 2017, Respondent 1 addressed a representation to the petitioner, seeking promotion to the Super Time Scale w.e.f. 1 January 2017, consequent to the advancing of his year of allotment from 2002 to 2001. It was also pointed out in the said representation that certain juniors of Respondent 1, who had also been granted the year of allotment as 2001, were actually promoted to the Super Time Scale. Inasmuch as he was in service on 1 January 2007, on which date he had become eligible for promotion to the Super Time Scale, and vacancies for such promotion were also available, Respondent 1 contended that he could not be denied promotion to the Super Time Scale w.e.f. 1 January 2017. The inaction of Respondent 1 in holding a Review Screening Committee or in correcting his year of allotment, it was submitted, could not enure to his disadvantage. As per Note 1 below Rule 3(1)¹² of the 2016 Pay Rules, he submitted that the Super Time Scale was a lawful entitlement of every officer of the IAS on

said thirty days, the concurrence on availability of vacancies shall be deemed to have been accorded and the position emanating as referred to this clause shall be placed before the Screening Committee at the time it meets to consider promotion in these grades:

Provided that a member of the service shall be appointed to the Junior Administrative Grade only after he has completed phase III mandatory Mid Career Training Programme with effect from the date on which he would have been eligible for appointment in the Junior Administrative Grade if not for completion of the mandatory Mid Career Training Programme:

Provided further that a member of the Service shall be appointed to the Super Time Scale only after he has completed phase IV mandatory Mid Career Training as prescribed with effect from the date on which he would have been eligible for appointment in the Super Time Scale if not for completion of the mandatory Mid Career Training Programme:

Provided also that a member of Service, who has less than three years of service after the year in which he has been slotted to undergo Phase III, Phase IV or Phase V of Mid Career Training, would not be sent for mandatory mid-career training programme.

¹² **Note 1.** – Appointment of a member of the Service to the Time Scale and above shall be regulated as per the provisions in the Guidelines regarding promotion to various grades in the Indian Administrative Service and any member of the Service shall become eligible for being appointed to the senior time scale on his completion of four years of service, subject to the provisions of sub-rule (2) of rule 6A of the Indian Administrative Service (Recruitment) Rules, 1954 and to the Junior Administrative Grade on completion of nine years of service, to the Selection Grade on completion of thirteen years of service and to the Super Time Scale on completion of sixteen years of service.



completion of 16 years from the date of joining.

8. Respondent 1's representation was rejected by the petitioner by order dated 16 August 2018 which once again reiterated the stand that Respondent 1 was not entitled to be promoted to the Super Time Scale as the scale was functional and Respondent 1 would be entitled to the pay of the said scale, under Rule 3(2)(iv) of the IAS (Pay) Rules only consequent on his appointment to the grade. As Respondent 1 was not available for appointment to the Super Time Scale even as on the date when Review Screening Committee met i.e. 6 September 2017, it was not possible to grant the said scale to Respondent 1. Juniors to Respondent 1, who were in service on the said date, could therefore be appointed to the post, were granted the Super Time Scale. Thus, it was stated that there was no illegality in denying to Respondent 1, the Super Time Scale.

9. Aggrieved thereby, Respondent 1 approached the Tribunal by way of OA 711/2018, praying that the order dated 16 August 2018, denying his representation, be quashed and set aside and that the petitioner be directed to grant Super Time Scale to Respondent 1 w.e.f. 1 January 2017 with consequential reliefs in pension, gratuity, leave encashment and such other retiral benefits. Respondent 1 also prayed interests and costs.

Proceedings before the Tribunal

Rival Submissions before the Tribunal



10. Before the Tribunal, the petitioner again placed reliance on Rule 3(2)(iv) of the IAS (Pay) Rules, which entitled a Member of the IAS to draw pay in the scale of selection pay and above only on appointment on the said grades. This according to the petitioner, indicated that the Super Time Scale was a functional scale and that the benefit of the said scale could, therefore, be granted only to officers who are available to discharge the function of the post in the said grade. An officer who had retired prior to the date of the Review Screening Committee, could not, therefore be granted the Super Time Scale. It was for this reason that while the Review Screening Committee found Respondent 1 fit for grant of the Selection Grade, it declined to grant him the Super Time Scale. The observations of the Review Screening Committee, in this regard, are thus noted in para 8 of the impugned judgment:

“8. In terms of the provisions contained under Para 8.2 (d) of Annexure-II of GoI's decision under Rule 3 of the IAS (Pay) Rules 2007, the Review Screening Committee observed that the applicant has already retired from Govt. Service after attaining the age of superannuation on 31.01.2017 and he is not available for assumption of charge for promotion to the Super Time Scale being a functional grade, thus he is not eligible for promotion to Super Time Scale of IAS.”

11. In para 10 of the impugned judgment, the Tribunal has again noted the petitioner's contention that, as “(Respondent 1) superannuated from service on 31 January 2017 and was not available for assumption of the charge of Super Time Scale post as prescribed under IAS (Pay) Rules, 2007, he was neither eligible nor granted promotion to the Super Time Scale of IAS.”

12. As against this, Respondent 1, as the applicant before the



Tribunal, submitted that his eligibility to grant of the Super Time Scale could not be questioned, as Note 1 below Rule 3(1) of the 2016 Pay Rules clearly entitled Respondent 1 to grant of the Super Time Scale from the 1st day of January of the year in which he completed sixteen years after joining the IAS. Once the year of allotment of Respondent 1 had been advanced from 2002 to 2001, therefore, Respondent 1 became entitled to the Super Time Scale w.e.f. 1 January 2017. This entitlement, it was submitted, could not be denied by placing reliance on Rule 3(2)(iv) of the IAS (Pay) Rules. At the highest, the said sub-Rule, could be cited only to deny, to Respondent 1, actual arrears of pay in the Super Time Scale w.e.f. 1 January 2017 till the date of his superannuation, as he had not physically functioned on that post. Respondent 1 was nonetheless entitled to notional grant of the Super Time Scale w.e.f. 1 January 2017 and to consequent re-fixation of his pay and retiral benefits as prayed in the OA.

13. It may be noted, here, that before the Tribunal, the petitioner has also sought to contend that mandatory Mid Career Training Programme was required to be undertaken by an officer before he was placed in the Super Time Scale and that the said training had not been undertaken by Respondent 1. However, the impugned judgment notes the third proviso to Rule 3(2)(iii) of the 2016 Pay Rules, which exempted members of the IAS, who had less than three years of service left, from the requirement of undertaking the Mid Career Training Programme. Before us, this argument has not been advanced by the petitioner. We, therefore, merely note it for the sake of the record.



Findings of the Tribunal

14. The Tribunal has first referred to the definition of “promotion” in the IAS Pay Rules, defined as meaning “appointment of a member of the service to the next higher grade over the one in which he is serving at the relevant time”. The Tribunal has also referred to a reply received by Respondent 1 from the petitioner under Right to Information Act, 2005¹³ on 2 July 2018, which contained the following clarification:

“b) Retired officers also to be considered when DPC could not take place in time.

On many occasions it is noticed that DPCs are not called in time and officers retire without getting benefit due to them merely on account of administrative delays. Since the officer retired in a lower grade, his pension is fixed in the grade he/she retired from. He/she gets punished for no fault. Many times it occurs due to political/bureaucratic vendetta. Therefore, it is felt necessary that retired officers should be provided notional benefit of promotion by revising their pension. Establishment Division has brought necessary modifications for Central Government employees vide OM dated 12.10.98.”

15. The Tribunal has also referred to a clarification received by Respondent 1, again under the RTI Act, on 2 July 2018, which read thus:

“f) Promotions in Super Time Scale and above grades anytime after Jan 1 during the relevant year.

The cutoff date for providing promotion of other grades than Super Time Scale and above is January 1st of every year. Recently Establishment Division vide their circular dated September 17, 1998 has modified the cutoff date January 1st for all promotions. The same is being extended for Super Time Scale and above in

¹³ “RTI Act”, hereinafter



IAS. Secretary (P) has approved this on a separate file as well.”

16. Following these, the Tribunal holds, in para 24 of the impugned judgment, that it was “amply clear that the retired officers can also be considered by the DPC and the cut-off date for providing promotion in the Super Time Scale was also fixed as 01st January of every year”.

17. The Tribunal ultimately holds that Respondent 1 became entitled and eligible for grant of the Super Time Scale from the 1st day of January of the year in which he completed 16 years from the date of appointment in the IAS. Inasmuch as Respondent 1’s year of allotment was advanced from 2002 to 2001, Respondent 1 became entitled to grant of Super Time Scale w.e.f. 1 January 2017. On this reasoning, the Tribunal has allowed Respondent 1’s OA and issued the directions extracted in para 1 *supra*.

18. Aggrieved by the aforesaid decision, the Union of India is before us by means of the present writ petition.

19. We have heard Mr. Mukul Singh, learned CGSC appearing for the Union of India and Respondent 1, who appears in person. Learned Counsel have essentially reiterated the submissions advanced before the Tribunal.

Analysis

20. We are entirely in agreement with the Tribunal.

21. Note 1 below Rule 3(1) of the 2016 Pay Rules is clear and



categorical. It renders a member of the IAS eligible to be appointed to the senior time scale on his completion of four years of service, to the JAG on completion of nine years of service, to the Selection Grade on completion of thirteen years of service and the Super Time Scale on completion of sixteen years of service. Availability for taking physical charge of the post is not envisaged, in Rule 3(1), as a *sine qua non* for promotion to the Scale. Once the year of allotment of respondent 1 to the IAS was corrected, albeit after his superannuation, to 2001, from the pre-existing 2002, it would be inequitable as well as unfair to deny, to Respondent 1, the benefits which logically flowed to him under the 2016 Pay Rules, particularly Note 1 below Rule 3(1) thereof.

22. The contention that the Senior Time Scale is a “functional” grade and that, therefore, Respondent 1 could not be promoted to the said Scale, cannot be accepted. At the highest, Respondent 1 could, if he was otherwise found fit for promotion to the Senior Time Scale, be denied actual pay for the period between 1 January 2017 and his superannuation. He would, nonetheless, be entitled to notional benefits and to fixation of his retiral benefits on that basis.

23. After hearing both sides and for the reasons aforementioned, we, therefore, dispose of this writ petition in the following terms:

- (i) We hold and declare that Respondent 1 was entitled to be considered for promotion to the Super Time Scale w.e.f. 1 January 2017, even though he had superannuated before the Screening Committee met.



(ii) The Screening Committee was, therefore, in error in regarding Respondent 1 as ineligible for consideration for promotion to the Super Time Scale w.e.f. 1 January 2017.

(iii) As Respondent 1's case was never considered on merits and no decision was taken by the Screening Committee as to whether he was fit or unfit for promotion to the Super Time Scale w.e.f. 1 January 2017, we direct that the Review Screening Committee would reconsider the case of Respondent 1 and based on the record, take a decision regarding his fitness or unfitness for promotion to the Super Time Scale w.e.f. 1 January 2017.

(iv) It is made clear that the Screening Committee would not proceed on the premise that Respondent 1 was ineligible for promotion with effect to the Super Time Scale.

(v) In the event that Respondent 1 is found fit for promotion to the Super Time Scale w.e.f. 1 January 2017, he shall be entitled to notional fixation of pay in the Super Time Scale w.e.f. 1 January 2017, as was granted to his peers who were promoted to the Super Time Scale from the said date.

(vi) Though Respondent 1 shall not be entitled to any arrears of pay for the time between 1 January 2017 and his superannuation, his pensionary benefit shall be re-computed and re-fixed on the basis of the notional fixation of pay as directed



supra.

(vii) To expedite matters, the Review Screening Committee is directed to arrive at a decision within a period of 4 weeks from the date of uploading of this judgment on the website of this Court, and release pensionary and other retiral benefits to Respondent 1.

(viii) In the event that Respondent 1 is found fit for promotion to the Super Time Scale w.e.f. 1 January 2017 and is, therefore, entitled to re-fixation of his pension as directed *supra*, the arrears which may become due to him on that account would be paid to him within 8 weeks of the decision of the Review Screening Committee. Failure to do so shall entail a liability to interest @ 8% per annum from the expiry of the said period of 8 weeks.

24. The impugned judgment of the Tribunal stands modified to the aforesaid extent.

25. The writ petition is disposed of, in the aforesaid terms.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

FEBRUARY 20, 2025

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Click here to check corrigendum, if any