

**CWP-21655-2023 (O&M)****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(223)****CWP-21655-2023 (O&M)****Date of Decision : May 29, 2026****Ashok Khemka****.. Petitioner****Versus****Union of India and another****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE DEEPAK MANCHANDA****Present: Mr. Shreenath A. Khemka, Advocate, for the petitioner.****Mr. Satya Pal Jain, Additional Solicitor General of India,
(joined through VC) with
Ms. Neha Sharma, Senior Panel Counsel, for respondent-UOI.****HARSIMRAN SINGH SETHI J. (ORAL)**

1. Present writ petition has been filed challenging the orders dated 12.07.2023 (Annexure P-17), 17.07.2023 (Annexure P-18) and 28.07.2023 (Annexure P-20) passed by respondent No.2- Central Administrative Tribunal (hereinafter referred to as 'the Tribunal') by which, the plea raised that the petitioner should be treated as having been empaneled at the level of Additional Secretary/Secretary, Government of India prior to date of his retirement, has been rejected.

2. The petitioner is a 1991- Batch IAS Officer and while serving as such, in the year 2010, he was empaneled as Joint Secretary to Govt. Of India. In the year 2019, the batch-mates of the petitioner were empaneled as Additional Secretary/Secretary to Govt. Of India but the benefit was not extended to the petitioner on the ground that the requirement of having worked on Central deputation for a minimum period of three years at the



level of Deputy Secretary and above, is not fulfilled by the petitioner, which requirement cannot be relaxed.

3. Feeling aggrieved against the said decision, the petitioner filed an original application before the Tribunal wherein, it has been mentioned that the rejection of the claim on the ground that the petitioner has not worked for a minimum period of three years at the level of Deputy Secretary and above on central deputation cannot be relaxed, is incorrect as the similarly situated IAS Officers, who also had NIL experience on deputation in the rank of Deputy Secretary and above with the Government of India, were already empaneled at the rank of Additional Secretary to Government of India by granting them relaxation.

4. Reliance was placed upon a list of 20 IAS Officers (Annexure P-9), who were empaneled as Additional Secretary and Secretary with the Government of India with NIL deputation experience at the Central level. Further, even after the rejection of the claim of the petitioner, one Mr. J. Radhakrishnan, IAS belonging to 1992 Batch of Tamil Nadu cadre, who was also not having any central deputation experience in the cadre of Deputy Secretary and above with the Government of India was also empaneled for the central deputation in the rank of Additional Secretary/Secretary.

5. The Tribunal considered the said aspect and held that once the Rules provided for minimum three years of central deputation in the rank of Deputy Secretary and above to be empaneled for the post of Additional Secretary/Secretary with the Central Government, the same could not be relaxed and accordingly rejected the claim of the petitioner vide orders



dated 12.07.2023 (Annexure P-17), 17.07.2023 (Annexure P-18) and 28.07.2023 (Annexure P-20). The said orders are under challenge in the present petition.

6. Learned counsel for the petitioner argues that once, the Rule existed but still, the IAS Officers who did not had any experience of central deputation in the cadre of Deputy Secretary and above, have been granted the benefit of empanelment, the Tribunal by grant of relaxation, without even noticing the said fact, Tribunal has wrongfully rejected the claim based upon the Rules.

7. Learned counsel for the petitioner submits that once the Rules stood relaxed not only before considering the petitioner's case for empanelment qua other similarly situated IAS Officer but even also after the rejection of the claim of the petitioner, another IAS Officer has been granted relaxation so as to empanel him in the cadre of Additional Secretary/Secretary with the Government of India, non-grant of the said benefit to the petitioner was discriminatory and therefore, the respondents are liable to be directed to treat the petitioner having been empaneled in the cadre of Additional Secretary with the Central Government for all intents and purposes.

8. Learned counsel for the respondents argues that as of now, the petitioner has already retired and therefore, question of his empanelment as Additional Secretary/Secretary with the Central Government does not arise and the present petition has been rendered infructuous.

9. Learned counsel for the petitioner submits that though the petitioner has already retired but, for various assignments, for which the



IAS Officers are entitled to be considered, the empanelment with the Government of India in the rank of Additional Secretary is the minimum preferred requirement and the petitioner becomes ineligible for such assignment and less meritorious qua other similarly situated candidates. Hence, the said issue needs to be decided.

10. We have heard learned counsel for the parties and have gone through the record with their able assistance.

11. The only question which arises for consideration is whether, the benefit of empanelment with the Central Government in the rank of Additional Secretary/Secretary can be granted to the petitioner despite an eligibility clause that such benefit can only be granted to the IAS Officer, who has served on deputation with the Government of India in the rank of Deputy Secretary or above for a minimum period of three years. Though, the Rules prescribed such eligibility qualification but, the grant of the relaxation of such Rule can also be exercised by the Union of India while extending the said benefit to an otherwise eligible Officer. The said relaxation has already been exercised by the Union of India number of times to the similarly situated IAS Officers and the details where such relaxation has been granted as reflected in Annexure P-9 is as under:-

“ The Executive Records of the following 15 IAS Officers (maintained on DoPT website) reveals that they were considered, empaneled and appointed as Additional Secretary/ Additional Secretary equivalent with ‘nil’ central experience:

1. Shri Naresh Chaturvedi (WB: 70)
2. Ms. Satwant Reddy (PB: 71)
3. Dr. Pramod Kumar Mishra (GJ: 72)
4. Shri Subodh Nath Jha (UP: 72)



5. *Dr. Chandra Pal (UP: 72)*
 6. *Ms. Manjulika Gautam (UP: 72)*
 7. *Shri Bijoy Kishore Sundar Ray (CG: 72)*
 8. *Shri V.S. Sampath (AP: 73)*
 9. *Shri K. Mohandas (KL: 74)*
 10. *Shri Syed Shahzad Hussain (MH: 76)*
 11. *Shri Arun Kumar Mishra (UP: 76)*
 12. *Shri Dilsher Singh Kalha (PB: 77)*
 13. *Shri Anil Goswami (JK: 78)*
 14. *Dr. Lalit K. Panwar (RJ: 79)*
 15. *Shri Surjit Kumar Chaudhary (TN: 80)*
 16. *Mr. J. Radhakrishnan (TN: 92) subsequent to the Impugned order*
- Additionally, the Executive Records of the following 4 IAS Officers (maintained on the DoPT website) reveals that they were considered, empaneled, and appointed as Secretary/Secretary equivalent with “nil” central experience:*
17. *Shri Ashok Kumar Dubey (PB: 70)*
 18. *Shri P.J. Thomas (KL: 73)*
 19. *Dr. Bhushan Chander Gupta (PB: 75)*
 20. *Shri J. Satyanarayana (AP: 77)”*

12. Not only this, after the rejection of the claim of the petitioner in the year 2021 even on 07.03.2022, by granting relaxation, Mr. J. Radhakrishnan IAS, 1992-Batch, Tamil Nadu cadre IAS Officer was granted the empanelment as Additional Secretary/Secretary with the Govt. Of India.

13. The said facts have gone unrebutted at the hands of UOI.

14. Once, similarly situated Officers as that of the petitioner were granted relaxation for empenalling them as Additional Secretary/Secretary with the Govt. Of India, the question that why such relaxation was not



granted to the petitioner without any valid reason remains uncontroverted.

15. Once, the Union of India exercises jurisdiction to relax the requirement of having worked on central deputation for a minimum period of three years at the level of Deputy Secretary and above and such relaxation was even exercised in favour of similarly situated IAS Officers, the non-exercise of the same will surely amount to discrimination, unless and until any differentiating fact is brought to the notice of the Court which exist between the petitioner herein and the other Officers, who have been granted relaxation while empanelling for the cadre of Additional Secretary with the Government of India. Since, there is no such differentiating fact which has been brought to the notice of the Court between the petitioner and the other IAS Officers who were empanelled in the cadre of Additional Secretary/Secretary with the Government of India by grant of exemption of having worked in the cadre of Deputy Secretary or above with the Government of India, same will amount to discrimination between the similarly situated Officers so as to violate Articles 14 and 16 of the Constitution of India. In such a condition, the benefit of parity has to be granted to the petitioner with the other similarly situated Officers herein so that no prejudice is caused to him.

16. Keeping in view the above, the present writ petition is allowed. However, as the petitioner has already retired and the empanelment is only for the purpose of bringing an IAS Officer on deputation with the Government of India, no such benefit can be granted to him as of now but for the future prospects/assignment for which, the preference is given to the Officers, who have been empaneled as Additional Secretary/Secretary with



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the Government of India, the petitioner will be treated on equal footing to such Officer and will be treated as empaneled as Additional Secretary/Secretary with the Government of India for such consideration for the future assignment only.

17. The present petition is allowed in above terms.
18. Civil miscellaneous application pending if any, also stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

May 29, 2026
harsha

(DEEPAK MANCHANDA)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No