

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION NO 1075/2022**

**DISTRICT : MUMBAI**

Shri Ashok Maruti Atram )  
Additional Commissioner cum )  
Joint Secretary, P.H.D, )  
Nasik Municipal Corporation, )  
R/o: 701, Vibhavari Govt. Quarter )  
Dinshaw Walcha Road, )  
Churchgate, Mumbai 400 032. )...**Applicant**

**Versus**

1. The Government of Maharashtra )  
Through Chief Secretary, )  
Having office at Mantralaya, )  
Mumbai 400 032. )
2. Government of Maharashtra, )  
Through Addl. Chief Secretary, )  
General Administration Department,)  
Mantralaya, Mumbai 400 032. )
3. Government of Maharashtra, )  
Through Addl. Chief Secretary, )  
Revenue & Forest Department, )  
Mantralaya, Mumbai 400 032. )...**Respondents**

Shri M.D Lonkar, learned advocate for the Applicant.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

**CORAM** : **Justice Mridula Bhatkar (Chairperson)**  
**Mrs Medha Gadgil (Member) (A)**

**DATE** : **12.06.2023**

**PER** : **Mrs Medha Gadgil (Member) (A)**

### **J U D G M E N T**

1. The applicant prays that this Tribunal be pleased to hold and declare that the impugned order dated 31<sup>st</sup> May, 2022 issued by Respondent no. 2 as illegal and bad in law and the same be quashed and set aside and further direct the Respondents to consider the case of the applicant for induction into Indian Administrative Service by promotion.

2. Learned counsel for the applicant submits that the applicant is working presently in the cadre of Joint Secretary since 2017. The cause of action arose when the order dated 31.5.2022 was issued by Respondent no. 2 refusing his consideration for induction in the I.A.S cadre. Learned counsel for the applicant submits that the applicant joined as Section Officer on 7.4.1999 and thereafter he was promoted to the post of Under Secretary on 29.3.2003. On 17.9.2007, the applicant was posted on deputation as Deputy Collector, Gadchiroli. Learned counsel for the applicant relied on Rule 4(1) of the Recruitment (seniority and permanent basis) Rules, 1977. The feeder cadre for the post of Deputy Collector is Tahsildar. Learned counsel for the applicant submits that Deputy Collectors are considered for induction in IAS cadre. Learned counsel for the applicant submits that as and when the applicant was appointed on deputation to the post of Deputy Collector, he seeks parity with the feeder cadre to induct in I.A.S.

Learned counsel for the applicant submits that Joint Secretary is equivalent and can be posted as Additional Collector. Additional Collector can be appointed by promotion from the feeder cadre of Deputy Collector, Selection Grade. There is no avenue by nomination for appointment to the post of Addl. Collector,

3. Learned counsel for the applicant relied on Rule 2(g)(ii) of the Indian Administrative Service (Recruitment) Rules, 1954, and submitted that the word 'service' and 'services' in plural is used and therefore it includes cadre of Deputy Collector as well as those who are working in the cadre of G.A.D services, i.e., Under Secretary, Deputy Secretary and Joint Secretary, subject to fulfillment of other service conditions, viz., 8 years' experience and A.C.Rs etc. This condition restricts only to the officers who are holding the charge of Deputy Collector, but also extend to the officers from all the State Services. Learned counsel for the applicant submitted that as per sub clause 2(g)(ii) of the I.A.S Recruitment Rules, it is necessary for the State Government to disclose the approved services. Learned counsel for the applicant submitted that the word 'substantive' cannot be restricted and attributed only to the post of Deputy Collector. Learned counsel submits that the legislature intended that using the word 'substantive' is not giving meaning restrictively but only to be considered when the basic requirement of holding the post in accordance with law and therefore, the applicant who was working as Under Secretary, who is sent on deputation as a Deputy Collector and subsequently promoted to the rank of Joint Secretary, which is equivalent rank to Selection Grade Additional Collector is eligible and falls within Rule 4(b) and eligible to be considered for induction to I.A.S cadre.

4. Learned C.P.O, while opposing the Original Application has relied on the affidavit in reply dated 24.1.2023, filed through Arati S. Desai, Under Secretary, in the office of Addl. Chief Secretary, (Personnel), G.A.D, Mantralaya, Mumbai, and especially paragraphs 7.1 & 7.2, and submitted that applicant's parent department is Mantralaya and they fall in Non-State Civil Service cadre and he cannot stand in the seniority list of Deputy Collectors. Further, a person on deputation cannot get placement in the seniority list of that cadre. Paragraphs 7.1 & 7.2 of the affidavit in reply is reproduced below:-

“7.1 I say and submit that the officers of Revenue cadre, regulates revenue collection and general administration of sub-divisions. The officers of revenue cadre are considered as SCS (State Civil Service) as per definition given in Rule 2g(ii) of IAS (Recruitment) Rules, 1954. Till now, officers of revenue cadre only i.e., Deputy Collector (State Civil Service) are considered while forwarding proposal to Union Public Service Commission for induction into IAS through promotion.

7.2 I further say that the officers other than SCS (Deputy Collector) are considered as Non-State Civil Service (Non-SCS officers). The Non-SCS officers are inducted into Indian Administrative Services as per rule 4(1) of IAS (Appointment by Selection) Regulation 1997.”

Learned C.P.O further submitted that appointment to I.A.S cadre is filled up through three modes (i) by nomination, (ii) by promotion and (iii) by selection of a substantive Member of State Civil Service. Learned C.P.O relied on Rule 4 of the I.A.S (Recruitment) Rules, 1954.

5. Rule 2(g)(ii) of the I.A.S (Recruitment) Rules, 1954 reads as under:-

“2(g) “State Civil Service” means.....

(ii) In all other cases, any service or services approved for the purpose of these rules by the Central Government, in consultation with the State Government, a member of which normally holds charge of a sub-division of a district for purposes of revenue and general administration or posts of higher responsibility; (emphasis placed)

Rule 4 of the I.A.S (Recruitment) Rules, 1954 reads as under:-

“4. Method of recruitment of the Service:- (1) Recruitment to the Service after the commencement of these rules, shall be by the following methods, namely:-

(a).....

(c) by selection, in special cases from among persons who hold in a substantive capacity gazetted posts in connection with the affairs of a State and who are not members of a State Civil Service.”(emphasis placed).

6. The submissions of the learned C.P.O on the point of placement of a person on deputation in the seniority list to that particular cadre are correct. Therefore, the applicant cannot be placed in the seniority and his name is not appearing rightly in the list of Deputy Collectors under consideration in the D.P.C meeting for induction in to I.A.S. It is true that the rule states about the ‘service’ and ‘services’ in the State. Thus, a particular cadre in any other service in the services can be approved by the Central Government in consultation with the State Government to consider them for the purpose of induction into I.A.S cadre. In this rule, one cadre in a Revenue Department is specifically mentioned as follows:-

“2(g) (ii) In all other cases, any service or services approved for the purpose of these rules by the Central Government, in consultation with the State Government, a member of which normally holds charge of a sub-division of a district for purposes of revenue and general administration or posts of higher responsibility.”

7. Thus, this rule gives power to the State Government to get any other posts in other services to be approved as a feeder cadre for induction into I.A.S. We are informed by learned counsel for the applicant Mr Lonkar that the State of Kerala and some other States have accordingly included other posts from different services to be considered as a feeder cadre. The State of Maharashtra also can consider the posts from other services who are holding the higher responsibility can be approved by the Central Government as a feeder cadre apart from the higher officers, viz., Deputy Collector in the Revenue Department. It is a matter of State's Will and the policy decision of the State of Maharashtra. On our query, we were informed that the State of Maharashtra has not prepared such approved list as a feeder cadre from any other services than the only services from the Revenue Department for induction into I.A.S cadre. Hence, principally though we are in agreement with Mr Lonkar, the learned counsel for the applicant, that other than the Deputy Collectors, the persons from other services can be considered as a feeder cadre for induction into I.A.S cadre, for want of approved list of such posts of feeder cadre, we are of the view that applicant is not entitled to get the seniority placement in the original list of Deputy Collectors as his parent department is Mantralaya, Non-State Civil Service Officers, where he was working as Under Secretary. Though, today he is working as Joint Secretary, which is equivalent to Selection Grade Additional Collector, his seniority can be fixed as per his parent department. We are also informed that as per the Rules, the highest promotion to the Civil servants working in Mantralaya who have joined at the junior level is Joint Secretary. However, the post of Joint Secretary is not approved services for promotion as a feeder cadre for induction into I.A.S cadre.

8. Thus, we conclude that as per Rule 2(g)(ii) of the I.A.S (Recruitment) Rules, 1954, the State of Maharashtra may consider to send proposal to the Central Government to consider some posts with higher responsibilities from other services to get it approved for induction into I.A.S cadre.

9. In view of the above, we find no merit in the Original Application and the same stands dismissed.

**Sd/-  
(Medha Gadgil)  
Member (A)**

**Sd/-  
(Mridula Bhatkar, J.)  
Chairperson**

**Place : Mumbai  
Date : 13.06.2023  
Dictation taken by : A.K. Nair.**