

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.2709/2002

This the 6th day of April, 2004

HON'BLE SHRI V.K.MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

R.P.Nath S/O D.C.Nath,
Permanent resident of
174, Rani Bagh Colony, Dhampur,
Distt. Bijnor, U.P.
Presently residing at
314-A, S.F.S. Flats,
Pankha Road, Janakpuri,
New Delhi.

... Applicant

(In person)

-versus-

1. Union of India through
Secretary, Ministry of Finance,
New Delhi.
2. Ministry of Finance,
Office of Principal Secretary,
Central Excise, Central Secretariat,
North Block, New Delhi through
Principal Secretary.
3. Chairman,
Central Board of Excise & Customs,
North Block, New Delhi.
4. Commissioner-II,
Central Excise, Meerut (U.P.).
5. Assistant Commissioner,
Central Excise,
Division Moradabad, U.P.

... Respondents

(By Shri N.S.Mehta, Advocate)

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, V.C.(A) :

The applicant was promoted as Superintendent, Central Excise from the post of Inspector vide order dated 7.7.1995. He retired on 29.2.1996 on superannuation. Earlier, the applicant had filed OA No.1073/1999 which was decided on 25.7.2000 with the following directions to the respondents:-

16

"4. We therefore dispose of this OA with a direction to respondents to enquire and determine whether or not the release of the promotion order dated 7.7.95 was intentionally delayed, and if not, who was responsible for the same. Respondents will apprise applicant of these findings within 4 months from the date of receipt of a copy of this order. In the event respondents conclude that the release of promotion order was intentionally delayed and applicant took all reasonable steps to join the promotion post as soon as the promotion order reached him, they will consider granting applicant the benefits flowing from the promotion order with effect from a date earlier than 27.10.95 by means of a reasoned order in accordance with rules and instructions.

22

5. Applicant has also prayed for certain other reliefs in the OA. In the orders which respondents will issue to applicant pursuant to the directions contained in para 4 above, respondents shall apprise applicant about the present position in respect of each of those other reliefs."

2. The grievance of the applicant is that the benefit as directed by the Tribunal has not been accorded to him. Respondents have issued the impugned order dated 2.3.2001 rejecting the contention of the applicant that release of his promotion orders dated 7.7.1995 was delayed intentionally.

3. According to the applicant, he was informed about his promotion only on 27.10.1995 and in the meantime, his juniors who had been provided copies of their promotion orders earlier than 27.10.1995 joined on the post of Superintendent and as such, applicant could join the promotional post only on 27.10.1995 whereby consequential benefits of promotion from an earlier date could not be availed of by him. Applicant has sought direction to respondents to fix his pay on promotion w.e.f. 7.7.1995 instead of 27.10.1995 and also

consequential benefits such as arrears and accord of revised pensionary benefits.

23

4. While the applicant who was present in person reiterated what has been stated above, the learned counsel of respondents stated that while the applicant had been promoted vide order dated 7.7.1995 with place of posting in Kanpur Commissionarate, he had represented on 25.8.1995 that he should be posted to a place nearer his home town as he was due to retire within six months. The department accepted his request and applicant was posted at Moradabad vide order dated 18.10.1995 which was complied by him. As such, the department did not delay his promotion orders and whatever delay had occurred was on applicant's account only. Recoveries were also made from him as per the LTC rules.

5. Applicant did not deny having made a representation to the respondents for change of posting on promotion on 25.8.1995. The contention of the applicant that he had not received the promotion orders dated 7.7.1995 till October, 1995 can not be accepted as he could not have made a representation for change of posting on promotion had he not received the promotion orders dated 7.7.1995. His request for change of posting was accepted by the respondents on 18.10.1995 and as such - he could join in the new place of posting at Moradabad instead of the earlier place of posting in Kanpur commissionarate. Applicant did not deny that he had been posted to Kanpur Commissionarate and he had requested for

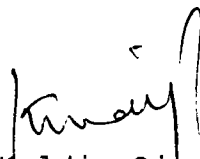
bb

change of posting on promotion and as such he was posted in Moradabad.

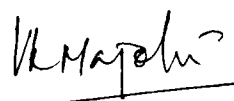
24

6. The respondents' contention that applicant was himself responsible for delay in joining on promotion is established from the facts and circumstances of the case. Respondents cannot be held responsible for delay in compliance of applicant's promotion orders as these orders were passed on 7.7.1995 and applicant had requested for a change in place of posting where he joined ultimately on receipt of fresh orders dated 18.10.1995.

7. In result, this OA must fail being devoid of merit. Dismissed accordingly. No costs.


(Kuldip Singh)
Member (J)

/as/


(V. K. Majotra)
Vice-Chairman (A)

6.4.04