

16

Central Administrative Tribunal
Principal Bench

O.A. No.1501/2002

New Delhi this the 30th day of July, 2003

Hon'ble Shri V.K. Majotra, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

Krishan Singh
S/o Shri Mam Chand
R/o B-4/75, Johri Pur,
Delhi-110 094.

-Applicant

(By Advocate: Shri S.K. Gupta)

Versus

1. Lt. Governor,
Govt. of NCT of Delhi.
Raj Niwas, Rajpur Road,
Delhi.

2. Chief Secretary,
Govt. of NCT of Delhi
Delhi Secretariat,
IG Stadium, IP Estate,
New Delhi.

3. Secretary (Planning)
Planning Department,
Govt. of NCT of Delhi,
Delhi Secretariat,
5th Level, IP Estate,
New Delhi-110 002.

4. Shri Y.D. Sharma,

5. Shri M.C. Wankhede,

6. Shri R.N. Sharma,

7. Shri H.R. Sharma,

8. Shri N.T. Krishna,

9. Shri Tula Ram,

(Respondent Nos. 4 to 9 are working as
Assistant Directors as on date and the
service may be effected through
Secretary (Planning), Planning Department,
Govt. of NCT of Delhi, Delhi Secretariat,
6th Level, IP Estate, New Delhi-110 002).

10. Union Public Service Commission,
Through its Secretary,
Shahjahan Road, Dhoulpur House,
New Delhi.

-Respondents

(By Advocate: Shri George Paracken)

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ORDER (Oral)

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

Through this OA, applicant had impugned order dated 16.5.2002 (Annexure A-1) by which respondents had promoted S/Shri M.C. Wankhede and R.N. Sharma to the post of Deputy Director prior to the applicant. He has also challenged an order dated 22.11.2000 (Annexure A-2), by which he was given promotion as Assistant Director from 6.11.1996 and not from the date when the aforesaid private respondents who are junior to the applicant were promoted.

2. Admittedly, applicant had been proceeded against in disciplinary proceedings and ultimately he was exonerated. During this period, two DPC meetings were held on 16.10.1995 and 4.10.1996 for promotion to the post of Deputy Director. Recommendations relating to the applicant made by the DPCs were kept in the sealed covers. Respondents have opened the sealed cover relating to the DPC held on 4.10.96 and promoted the applicant as Assistant Director w.e.f. 6.11.1996. They had not opened the recommendations of DPC meeting held earlier on 16.10.1995. Respondents have now consulted the UPSC in this regard and intend acting upon the instructions contained in DOPT OM dated 14.9.92 as also the recommendations of UPSC. As per instructions of DOPT OM dated 14.9.92, on the conclusion of disciplinary case/criminal prosecution resulting in dropping of allegations against the Government servant, the sealed cover/covers have to be opened and in case Government servant is found to be



18

completely exonerated, the due date of his promotion is determined with reference to the position assigned to him in the findings kept in the sealed cover/covers and with reference to the date of promotion of his next junior. It is stated that as per these instructions as also advice rendered by UPSC, department is required to open both the sealed covers and first act on the sealed cover relating to the earlier DPC held on 16.10.1995. The department now proposes to accord promotion to the post of Assistant Director on the basis of the recommendations of DPC held on 16.10.1995 as per relevant rules and instructions, which is acceptable to the applicant.

3. Having regard to the relevant instructions discussed above as also recommendations of UPSC, these consent orders are passed, directing the respondents to consider promoting the applicant on the basis of recommendations of DPC held on 16.10.1995 ^{and b} according to seniority to the applicant in the promotional post of Assistant Director. ^h As applicant's juniors S/Shri M.C. Wankhede and R.N. Sharma have already been promoted on ad hoc basis as Deputy Director, Respondents shall consider the applicant as well for promotion to the post of Deputy Director on ad hoc basis on the first available vacancy of Deputy Director. This exercise shall be done within a period of two months from the date of communication of these orders.

4. OA is disposed of as above. No costs.

S. Raju
(Shanker Raju)
Member (J)
cc.

V.K. Majotra
(V.K. Majotra)
Member (A)