

**Central Administrative Tribunal
Principal Bench**

OA No.43/2020

New Delhi, this the 7th day of January, 2020

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**



Dr. Atma Ram Goyal,
Age 64 years, Group 'A',
S/o Shri Phool Chand Goyal,
Formerly Joint Secretary
To the Government of India and
R/o 1041, U.F Apartments,
Sector-6, Dwarka,
New Delhi-110075.

...Applicant

(By Advocate : Shri Kundan Lal Sharma)

Versus

1. Union of India, through
Secretary,
Department of Personnel & Training,
North Block,
New Delhi-110001.

...Respondent

(By Advocate : Shri Vijendra Singh)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicant was in the Central Secretariat Service (CSS). He was empanelled for the post of Director, and was promoted to that post on 19.06.2007. He was

promoted as Joint Secretary and retired in that post, in the year 2015, on attaining the age of superannuation

2. While in service, the applicant made representations to the respondents stating that he was entitled to be extended the benefit of pay scale for the post of Director from the date, with reference to which, he was included in the list of eligible candidates for that post. Correspondence ensued in this behalf. To a recent representation dated 29.07.2019, submitted by the applicant, the respondents replied on 03.12.2019. It was stated that the Suitability List for the post of Director for the years 2002-03 was prepared in the year 2007, under the Central Staffing Scheme and by removing the ceiling, as many as 150 officers in the feeder category were promoted as Directors and that the claim of the applicant, for notional promotion w.e.f. 01.07.2003, is not tenable and accordingly, it was rejected. In this OA, the applicant claimed the relief in the form of a direction to the respondents to fix his pay scale in the post of Director w.e.f. 01.07.2003, and to extend him the benefit of the arrears of pay and allowances, on account of such revision, with interest. Though the order dated 03.12.2019 is not challenged in the prayer clause of the



OA, we take it that the applicant did have a grievance about it, as is evident from the para 1 of the OA.

3. The applicant contends that once he is included in the panel w.e.f. 01.07.2003, he is entitled to be extended the pay scale attached to that post from that date, notwithstanding, the fact that the promotion was delayed up to the year 2007. He also places reliance upon certain orders passed in respect of the post of Deputy Secretary in the year 2007 and the officers of the CSS in the year 2001.

4. We heard Shri Kundal Lal Sharma, learned counsel for applicant and Shri Vijendra Singh, learned counsel for respondents, at the stage of admission, in detail.

5. The applicant held the post of Deputy Secretary in the year 2007. At that stage, steps were initiated for preparing panel for the post of Director and that in turn was referable to the year 2002-03. The applicant is said to have been placed in the panel referable to the year 2003. However, that step was taken only in the year 2007. Shortly thereafter, he was promoted to the post of Director. Therefore, it is not the case in which the applicant was found eligible for promotion to the post of



Director in the year 2003 itself and included in the panel. It was almost an exercise in retrospectivity.

6. Even where a person is included in the panel in the year 2003 and actual promotion takes place few years thereafter, the question of promotion being treated with effect from the date on which he was included in the panel, does not arise. Law is fairly well settled in this regard. In the ***Union of India & Ors. Vs. K.K. Vadera & Ors.*** 1990 AIR 442, the Hon'ble Supreme Court held that the promotion can take place only with effect from the date on which it is made and the question of treating it with any date antedate to that does not arise. The known exception to that principle is where the sealed cover procedure is adopted in respect of an employee and by the time the occasion arose for opening the sealed cover, the juniors were promoted. In such cases, though the actual promotion takes place at a later point of time, it is treated on notional basis with effect from the date on which his junior was promoted. Barring this exception, the promotion can only be prospective in nature. The respondents have furnished detailed reasons in the reply dated 03.12.2019, and we are not convinced to find fault with any of them.



7. The applicant places reliance upon the order dated 16.08.2007, through which the benefit of promotion to the selection grade (Deputy Secretary) was extended w.e.f. 01.07.1990, on notional basis, restricting the actual financial benefit from the date of the order. Similar benefit was also extended through an order dated 27.07.2001. In both the cases, the decision was on facts and not on the basis of any general principles. Things would have been different altogether, had there been any OM issued by the Government or a binding precedent, which is to the effect that irrespective of the date on which the actual promotion takes place, an employee shall be entitled to be treated in the pay scale, attached to the post, from the date on which he was included in the panel for that post. The law, in fact, is in the other way.

8. We do not find any merit in the OA and the same is accordingly dismissed.

There shall be no orders as to costs.

(Aradhana Johri)
Member (A)

(Justice L.Narasimha Reddy)
Member (J)

‘rk’

