



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA No. 2429/2015

New Delhi, this the 18th day of February, 2020

**HON'BLE MRS. JUSTICE VIJAY LAKSHMI, MEMBER (J)
HON'BLE MR. PRADEEP KUMAR, MEMBER (A)**

Chain Singh Rawat (Aged about 53 years)
S/o Late Sh. K S Rawat
Presently Employed At IMA Dehradun, (UDC)
R/o 88/9, Om Vihar, Ajabpur Kalan,
Dehradun, Uttarakhand

... Applicant

(By advocate : Mr R K Sharma)

Versus

Union of India through

1. Additional Secretary
Ministry of Defence (Civilian)
Govt. of India, New Delhi

2. Indian Military Academy,
Commandant, Dehradun.

3. Sh. Inder Chand
(UDC) MS-1388
Through Commandant,
Dehradun.

...Respondents.

(By advocate : Ms Avinash Kaur for Respondents no 1 & 2
and Mr Subhash Gosain for Respondent no. 3)



ORDER (O R A L)

Mr Pradeep Kumar, Member (A) :-

1.0 Mr R K Sharma, learned counsel appeared for the applicant and Ms Avinash Kaur, learned counsel and Mr Subhash Gosain, learned counsel appeared for respondents no 1 & 2 and respondent no. 3 respectively.

2.0 The applicant herein had joined Indian Military Academy (IMA) as Civilian Employee on the post of LDC in the year 1986. In due course, he was promoted to the post of Upper Division Clerk (UDC).

One post of Accountant was required to be filled by selection amongst the senior most UDCs. A notice was issued on 17.02.2015 indicating the names of five employees who were considered eligible and who could submit their willingness/unwillingness certificate for the said post.

The applicant herein gave his unwillingness on 24.03.2015 for consideration for the said post.

3.0 The DPC for the said post met sometime later. Their recommendations were approved by the competent authority on 16.06.2015. It transpires that out of five



candidates, four had shown their unwillingness and one Shri Inder Chand, who showed willingness was found suitable by the DPC and he was promoted. The said Shri Inder Chand is the private respondent no. 3 in the instant OA.

4.0 The applicant pleads that his unwillingness, signed by him on 24.03.2015 was not counter signed by his controlling officer and as such this could not have been taken into account by the respondents.

Further, the applicant sought the seniority list from the respondents to adjudge for himself as to where he stands in the said seniority list with a view to exercise his willingness/unwillingness option. Said seniority list was supplied to him on 24.04.2015. Thereafter on 21.06.2015, he sought to submit his willingness for the said post vide his application dated 21.06.2015. It was counter signed by Colonel (A) of Indian Military Academy (IMA) and this was received by respondents on 27.06.2015.

The applicant pleads that this willingness was not taken into account by the respondents and thus, he was denied his chance of promotion to the post of Accountant. Hence, the grievance and this OA.



5.0 With this in view, the applicant pleads that since his unwillingness option was not counter signed by the competent authority, it could not have been taken into account. The applicant admitted during hearing of this OA that he had signed the unwillingness.

The applicant further pleads that even though the DPC recommendations to promote private respondent no. 3 were already approved on 16.06.2015, yet since promotion was actually not effected by 21.06.2015, when he gave willingness, the respondents were still required to take this into account and review the DPC recommendations and consider him also.

6.0 Per contra, the respondents opposed the OA. It was pleaded that the notice wherein options were asked, very clearly indicated the name of the applicant and it is admitted that the applicant did not opt to be considered for the post of Accountant. In fact, out of five, four candidates gave their unwillingness.

Subsequently, DPC met and found private respondent no. 3 eligible and suitable and recommended for promotion. This was approved by the competent authority on 16.06.2015. Said promotion was effected as of 04.07.2015.



7.0 In view of this, the applicant's submission that his willingness of 21.06.2015 should still have been given credence is without any merit and OA is required to be dismissed.

8.0 Matter has been heard at length. In the instant case, the respondents called for options from five such employees who were senior and admittedly applicant's name is shown at serial no. 2 of the said list.

The applicant decided not to be considered for the said post and gave his unwillingness on 24.03.2015.

The applicant's protestations that he did not have the seniority list and therefore he could not exercise his option or that subsequently he changed his option and tendered his willingness, which is admittedly subsequent to the DPC recommendations having been already approved by the Competent Authority, are devoid of any merit.

There is no logic or merit in these protestations now that the approved DPC recommendations needed to be reviewed because he had changed his mind before promotion was actually effected.

9.0 Applicant's plea that his unwillingness could not have been taken into account because it was not counter



signed by his controlling authority, is also devoid of merit as the DPC could not consider an applicant if he was unwilling to start with.

10.0 In view of the foregoing, the Tribunal does not find any merit whatsoever in the OA. OA stands dismissed. No costs.

(Pradeep Kumar)
Member (A)

(Justice Vijay Lakshmi)
Member (J)

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