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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1815/2001

This the 11th day of April, 2002

HON'BLE SH. V.K. MAJOTRA, MEMBER (A)
HON'BLE SH. KULDIP SINGH, MEMBER (J)

S. R. Harit S/o Late Sh. R.S. Harit
R/o 22, Bazar Lane, Bhogal, Jangpura,
New Delhi-110014.

(By Advocate: Sh. Yogesh Sharma)

Versus

1. Govt. of NCT of Delhi through
The Chief Secretary,
New Secretariat,
I.P. Estate,
New Delhi-110002.
2. The Joint Secretary (Services),
Govt. of NCT of Delhi,
New Secretariat,
I.P. Estate,
New Delhi-110002.
3. The Director,
Social Welfare Deptt.
Govt. of NCT of Delhi
1, Canning Lane, K.G. Marg,
New Delhi-110001.

(By Advocate: Sh. Mohit Madan proxy for
Mrs. Avnish Ahlawat)

ORDER (ORAL)

By Sh. Kuldip Singh, Member (J)

In this OA the applicant claims that he was entitled to the promotion in the post of Superintendent Gr.-I with effect from the year 1992 with assumed seniority from 1989 when juniors to him were promoted. The applicant further alleges that he has been denied promotion from the date when his juniors were promoted because of the reason that a false criminal case was registered against the applicant in the year 1987 under Prevention of Corruption Act read with Section 161 IPC. Applicant has also been placed under suspension during the pendency of the case. The criminal case was decided on 25.1.99 in which the applicant was acquitted on merits of the



case. It is further stated that on his acquittal the Resp. No.3 also decided to treat the suspension period as on duty w.e.f. 15.6.87 when he was placed under suspension.

2. Thereafter applicant made a representation for grant of consequential benefits like seniority/promotion etc. but when he joined the duty on 8.2.99 his name was not on the seniority list of Grade-II (DASS) and on his representation his seniority was decided vide order dated 15.2.2000.

3. The respondents also constituted a DPC for promotion to the post of Grade-I (DASS) on 13.6.2000 and DPC recommended the promotion of the applicant with immediate effect but the correct facts were not brought to the knowledge of the DPC, so another representation was made to the effect that the applicant is claiming seniority from 21.8.89 from the date when junior of the applicant, namely, Ms. Sneh Lata Chand was promoted and had also claimed for a review DPC. But despite his representation his case has not been considered. Applicant further claims that he has been acquitted honourably so the case of the applicant be considered and he is entitled for promotion when his juniors were promoted and is entitled to all the consequential benefits therein.

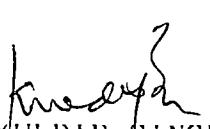
4. Respondents have contested the OA. Respondents admit that the applicant was promoted to the post of Grade-I Officer (DASS) w.e.f. 26.7.2001. But the respondents plea is that since the applicant was involved in an anti-corruption case and he was caught red-handed while accepting illegal gratification of Rs.150/- but the department was of the view that the acquittal of the official was on technical grounds. It is further pleaded that since the post of Grade-I (DASS) is a selection post and the method of recruitment to the post is

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merit-cum-seniority. DPC assessed the suitability of the applicant for promotion to the post of Grade-1 (DASS) with prospective effect only and did not give even benefits of notional promotion from 21.8.99 the date from which immediate junior of the applicant in the lower grade was promoted.

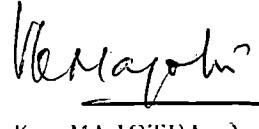
5. We have heard the learned counsel for the parties and gone through the record. Applicant has also placed on record the copy of the judgment vide which he has been acquitted from the criminal court. On going through the same, we find that the applicant was acquitted for lack of evidence and it cannot be said that he has been acquitted merely on technical grounds. The operative portion of the judgment also reads that the prosecution has failed to prove his case beyond reasonable doubt which term does not suggest that the applicant has been acquitted on technical grounds. Thus, we are of the considered opinion that the applicant is entitled to be considered for promotion from the date his immediate juniors were promoted.

6. Accordingly, we allow the OA and direct the respondents to constitute a review DPC to consider the promotion of the applicant from the date when his juniors were promoted. Respondents shall also consider the ^{grant for} ~~ground~~ of consequential benefits in accordance with law, instructions and judicial pronouncement on the subject. No costs.


(KULDIP SINGH)

Member (J)

'sd'


(V.K. MAJOTRA)

Member (A)