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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1936/2001

This the 12th day of November, 2001.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI KULIP SINGH, MEMBER (J)

R.K.Anand S/O K.G.Anand,
R/O 7, Urban Estate,
Gurgaon-122001, presently posted
as Joint Controller of Defence Accounts,
CDA, Patna-800019.

... Applicant

(In person)

-versus-

1. Union of India through
Defence Secretary,
Ministry of Defence,
South Block, New Delhi-110001.
2. Chairman,
Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi.
3. Controller General of Defence Accounts,
West Block-V, R.K.Puram,
New Delhi-110066.
4. Controller of Defence Accounts,
Rajendra Path, Patna-800019.
5. Shri S.K.Kohli,
Controller of Finance & Accounts (Fys),
Jabalpur Group of Fys,
Jabalpur.

... Respondents

(By Shri R.V.Sinha, Advocate)

O R D E R

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

The grievance of the applicant is that several juniors to the applicant have been promoted to the Senior Administrative Grade (SAG) of the Indian Defence Accounts Service (IDAS) superseding the applicant vide panel for promotion recommended by the Departmental Promotion Committee (DPC) meeting held on 30.11.2000. Supersession

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of the applicant is evident by the promotion order dated 28.3.2001 (Annexure-2) in respect of ^{a junior} Shri S.K.Kohli, respondent No.5. The applicant contended that the benchmark for promotion to the SAG is 'very good', and that he has never been communicated any adverse remarks in his service career. He has stated that as per order dated 17.8.1995 of the Allahabad Bench of this Tribunal in OA No.1837/1994, when the benchmark for promotion is 'very good', the remarks 'good' and 'average' will adversely affect the promotion and have to be communicated. The applicant also placed reliance on U.P.Jal Nigam v. Prabhat Chandra Jain, AIR 1996 SC 1661 contending that if an employee legitimately had earned a 'very good' report in a particular year which, in a succeeding one, and without his knowledge, is reduced to the level of 'good' without any communication to him, it would certainly be adverse and affect him at one or the other stage of his career. In the instant case as nothing has been communicated to the applicant, his supersession is bad in law.

2. The learned counsel of the respondents stated that the DPC held on 30.11.2000 considered the question of selection of officers for promotion to the SAG of IDAS. The vacancy position during the year 2000-2001 was 8 vacancies in the general category and none in the reserved categories. Whereas the DPC examined the character rolls of the applicant and assessed him as 'good', those assessed as 'very good' were placed in the panel/extended panel. The applicant was neither placed

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in the select panel nor in the extended panel on the basis of his record.

3. We have perused the confidential reports of the applicant. We find that ^{1/2} ~~whereas~~ no ACR of the applicant was written for the period from 11.1.1994 to 31.3.1995 as he had not worked under any reporting officer during that period continuously for three months. It is further noted that the applicant was assessed in category 'good' during the periods 1.4.1995 to 9.11.1995, 1.4.1997 to 5.3.1998 and 8.12.1998 to 31.3.1999. It is not the respondents' case that as the benchmark for promotion to the SAG is 'very good', they had communicated the downgraded entries in the applicant's ACRs during the relevant periods when he was generally categorised as 'good'.

4. In view of the ratio of the judgment of the Supreme Court in the case of U.P.Jal Nigam (supra) when in view of the criteria of promotion to the SAG downgradation from 'very good' has an adverse affect on the career of the applicant it was imperative that such ACRs should have been communicated to him which was not done in the present case. Thus, we are of the view that ACRs in which the applicant was categorised as 'good' and which have been described above, are unsustainable. Consideration of the applicant's case for promotion to the SAG based on the aforesaid ACRs has to be held as vitiated. In the circumstances, we are left with no alternative but to hold that non-consideration of the applicant for empanelment to SAG was irregular and he has

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to be re-considered ignoring the ACRs for such years when he has been categorised as 'good' as against the benchmark of 'very good'.

5. We, therefore, in the light of the above discussion quash and set aside the applicant's assessment as 'good' based on which his case was considered in the DPC meeting held on 30.11.2000 and direct the respondents to convene a review DPC for re-considering the applicant's case for promotion to the SAG ignoring the ACRs in which he was graded as 'good' and when such ACRs were not communicated to the applicant. The applicant's claim for promotion to SAG may be considered in the above terms within a period of three months from the date of receipt of this order as per rules and relevant instructions on the subject. In this manner, if he is found fit for promotion to SAG, he may be promoted to the SAG with effect from the date his immediate junior was promoted, with all consequential benefits.

6. Present OA is allowed in the aforestated terms. There will be no order as to costs.



(Kuldip Singh)
Member (A)



(V.K. Majotra)
Member (A)

/as/