

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 233/2001

New Delhi this the 31st day of January, 2001.

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HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

Kuldeep Singh Nagi,
Senior Auditor,
O/O Principal Controller of
Defence Accounts (Hqrs.),
'G' Block, DHQ PO,
Delhi-110011.

... Applicant

(By Shri E.J.Varghese, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Defence,
South Block, New Delhi.
2. Financial Adviser,
Ministry of Defence (Finance),
South Block, New Delhi.
3. Controller General of Defence
Accounts, West Block V, R.K.Puram,
New Delhi-110066.
4. Principal Controller of Defence
Accounts, Headquarters,
"G" Block, DHQ PO, ng Centre),
New Delhi-110011.

... Respondents

O R D E R (ORAL)

Shri S.A.T.Rizvi, Member (A):

The applicant in this OA has been promoted to the post of Selection Grade Auditor (SGA) based on the recommendations of the DPC held on 5.6.1981. In the earlier DPC held on 22.1.1980 he could not be promoted as, based on the ACR position, he was then found ^{to be} unfit. The later DPC considered the ACR position in respect of 1978, 1979 and 1980 and found the applicant fit for promotion. In the process the applicant has lost seniority. His promotion has taken effect from

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1.5.1982. His claim is that he should have been promoted w.e.f. 22.9.1980. That would have been the case had the applicant been found fit by the earlier DPC held on 22.1.1980. Based on this grievance, he has filed the present OA.

2. The learned counsel appearing for the applicant has placed reliance on the circular issued by the respondents on 4.12.1973. We have perused the same and we find that the aforesaid circular lays down the following criteria for adjudication of fitness for promotion :

- "(i) The last three annual confidential reports would be considered;
- (ii) Out of the above three reports, the latest should be clear and free from any adverse remark;
- (iii) If the other two reports both contain adverse remarks, the individual will not be recommended 'fit' for promotion/confirmation. If, however, only one of the two remaining reports contains adverse remarks, the Local Promotion Committee will base its recommendations on the overall record of the individual."

3. We find that the case of the applicant is covered by the criterion No.3 listed above. According to the learned counsel, the ACR of the applicant for 1978 contained adverse remark for a period of five months only; the remaining period of 1978 was covered by favourable remarks. The remaining two years, namely, 1979 and 1980 are, according to him, covered by favourable remarks. This being the case, according to the abovesaid criterion, the local promotion committee

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was required to base its recommendation on the overall record of the individual. We presume that the DPC has followed this criterion and has on that basis found the applicant unfit when it met on 22.1.1980.

4. We have, at the instance of the learned counsel, also perused the detailed reply sent by the respondents rejecting the applicant's representation. The same is a speaking and ^{3 a} reasoned order and is found by us to be consistent with the criteria laid down in the aforesaid circular dated 4.12.1973.

5. In the circumstances, we find there is no merit in the OA which is summarily dismissed. It is, however, clarified that as and when the representation filed by the applicant in respect of the adverse remark for ⁴ five months' period of 1978 is decided upon by the respondents, a fresh cause of ⁵ action might accrue depending on the outcome, ^{7 that is,} ~~if~~ if the aforesaid adverse remark is wiped out, the applicant could make a fresh representation, which could then be considered by a review DPC for the purpose of antidating his promotion.



(S.A.T. Rizvi)
Member (A)



(Ashok Agarwal)
Chairman

/as/