

Central Administrative Tribunal  
Principal Bench

O.A. No. 277 of 2001

New Delhi, dated this the 30<sup>th</sup> JANUARY 2002

(10)

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE MR. SHAKER RAJU, MEMBER (J)

Shri V.R.K. Nair,  
S/o late Shri A.V. Pillai,  
R/o 107, Minto Road Hostel,  
New Delhi-110002.

.. Applicant

(By Advocate: Shri K.L. Bhandula)

Versus

1. Union of India through  
the Secretary,  
Ministry of Water Resources,  
Shram Shakti Bhawan,  
New Delhi-110001.

2. Chairman,  
Central Water Commission,  
Sewa Bhawan,  
R.K. Puram,  
New Delhi-110066.

.. Respondents

(By Advocate: Shri R.N. Singh)

ORDER

S.R. ADIGE, VC (A)

Applicant seeks proforma promotion under NBR w.e.f. 17.8.92 i.e. the date of promotion of his junior Shri S.P. Jindal, EAD/AE, or alternatively to fix his basic pay in the grade of EAD/AE in the scale of Rs.6500-10500 at par with his juniors who were promoted along with him.

2. Heard both sides.

3. By order dated 31.7.92 (Annexure III) applicant who was working as J.e. in Bhutan was promoted and posted EAD/AE under Chief Engineer, North Eastern Region, Shillong. Respondents' letter

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dated 17.11.93 (Annexure R-III) reveals that  
aforesaid order dated 31.7.92 was passed on to  
applicant on 25.8.92 on proper receipt, but applicant  
himself avers in para 1(iii) of his O.A. that he did  
not join as EAD/AE in Shillong pursuant to the  
aforesaid order dated 31.7.92. Subsequently he was  
further posted to N.E. Investigation Division II  
under N.E. Investigation Circle, Shillong vide order  
dated 4.9.92. Meanwhile he had earlier applied for  
the post of A.E. in N.W.D.A. Trivandrum and  
consequent to his selection, orders for relieving him  
from CWC issued on 31.7.92 upon which he relinquished  
charge on 5.9.92 and proceeded on deputation to  
Trivandrum. Meanwhile Shri S.P. Jindal, whose name  
featured below applicant's name in order dated  
31.7.92 and was also promoted and posted by the same  
order in C.E., N.E. Region, Shillong, presumably  
joined his post pursuant to that order soon after.

5. Government of India order No.29 below FR  
22 in Swamy's Compilation of FRs and SRs 13th Edition  
1997 lays down that N.B.R. is attracted where an  
officer in a post (whether within the cadre of his  
service or not) is prevented from officiating in his  
turn in a post in the higher scale. In the present  
O.A. there is no averment by applicant that he was  
prevented from joining as EAD/A.E. at Shillong.  
Indeed applicant did not join at Shillong of his own  
volition because meantime he had been selected for  
deputation under N.W.D.A. at Trivandrum and made  
over charge to proceed to Trivandrum on 5.9.92.

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6. In the light of the above, neither the benefit of NBR nor of pay fixation vis-a-vis Shri S.P. Jindal is admissible to applicant. The O.A. is dismissed. No costs.

*S. Raju*

(Shanker Raju)  
Member (J)

*S.R. Adige*

(S.R. Adige)  
Vice Chairman (A)

karthik