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CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

OA-3222/2001

New Delhi this the 28th day of May, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman(J)  
Hon'ble Sh. C.S. Chadha, Member(A)

Shri K.N. Bakshi(Retd.)I.D.A.S.  
A.C.D.A. from Defence Accounts Department  
R/o A-2451 Netajit Nagar,  
New Delhi. .... Applicant

(By Advocate : Sh. V.P.S. Tyagi)

Versus

1. Union of India (through Secretary)  
Ministry of Defence,  
New Delhi.
2. The Financial Advisor,  
Ministry of Defence (Finance Division),  
New Delhi.
3. The Controller General of Defence  
Accounts, West Block-V, R.K. Puram,  
New Delhi.
4. Smt. Rukhsana Shaheen Khan,  
Previously CDA(AF)  
Now Jt. CGDA System in the  
office of C.G.D.A.,  
West Block-V, R.K. Puram,  
New Delhi.
5. Sh. Rajiv Sharma,  
Previously DCDA(AF)  
Now DCDA(AN) in the office of  
CDA (Army), Meerut Cantt. .... Respondents

(By Advocate : Mrs. Harrvinder Oberoi)

ORDER (ORAL)

Hon'ble Sh. C.S. Chadha, Member(A)

The applicant filed this O.A. claiming promotion retrospectively with effect from 29.06.1998, the date from which his juniors were promoted. He was himself later promoted with effect from 29.12.2000 and he superannuated on 28.02.2001.



2. His grievance is based on the fact that he feels that he has been wrongly graded as only 'good' when for two years he got 'outstanding' CRs. He feels that he should have been intimated about his downgrading. Further, he alleges malafides against two of his superior officers i.e. Respondents No. 4 & 5 and has cited Annexure A-4 letter dated 29.4.1998 vide which he was warned for not doing his work properly. He terms this as malafide order passed with the sole intention of destroying his career and spoiling his record.

3. At the very outset we would like to observe that the cause of action to the applicant for his alleged non-promotion due to the empanelment of the D.P.C. held on 3rd, 4th and 5th June, 1998 arose on 29.06.1998 when promotion orders were issued which included his juniors. Although the applicant claims that he made several representations, from the record it can only be proved that the very first representation made by him is dated 10.01.2001 which was highly belated and, therefore, no remedy should normally accrue to the applicant. However, since the respondents' department considered the case and rejected it on merits on 30.03.2001 and 02.05.2001, we would still like to go into the merits of the case.

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4. As regards merits of the case, we find from the proceedings of the D.P.C. that the overall record of Shri Bakshi has been assessed as only 'good'.

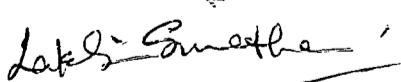
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Learned counsel for respondents pointed out that 17 of his colleagues who were considered on that date were found to be outstanding and 90 were assessed as 'very good' and since the vacancies were only 79, the applicant could not be promoted. The argument of the learned counsel for the applicant that had he been rated 'very good' he would have secured promotion is not tenable. We find no error in the judgement of D.P.C. in assessing its overall record to be 'good' i.e. for the relevant period of 5 years. The Tribunal is not supposed to sit in judgement over the assessment made by the D.P.C. but has merely to see whether D.P.C. has applied its mind in a fair and just manner. The allegation of malafides although made against Respondents No. 4 & 5, who were not members of the D.P.C., are far from truth, ~~and~~ <sup>as</sup> there is no reason to believe that the members of the D.P.C. bore a grudge against the applicant. We find that the members of the D.P.C. are all of the rank of Joint Secretary and above and the Chairman is a Member of Union Public Service Commission who cannot be taken to be biased against the applicant.

5. In the circumstances, we find that there is no substance in the allegation that he has been considered in an unfair manner. He waited for his promotion and thereafter raked up this issue belatedly. We, therefore, dismiss this O.A. as without any merit as well as barred by limitation. No order as to costs.



(C.S. Chadha)  
Member(A)



(Smt. Lakshmi Swaminathan)  
Vice-Chairman(J)