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Central Administrative Tribunal  
Principal Bench

O.A. No. 1909 of 1999

New Delhi, dated this the 27<sup>th</sup> MARCH 2001

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

Shri Rup Chand Hassija,  
S/o late Shri Hovna Ram,  
C-7/69, Lawrence Road,  
Keshav Puram,  
New Delhi-110035.

.. Applicant

(By Advocate: Shri P.M. Ahlawat)

Versus

1. NCT of Delhi through  
the Chief Secretary,  
Govt. of NCT of Delhi,  
Sham Nath Marg,  
Delhi-110054.

2. The Director & Principal Secretary,  
Directorate of Training & Tech. Edu.,  
Govt. of NCT of Delhi,  
C Block, Vikas Bhawan,  
New Delhi-110002.

.. Respondents

(By Advocate: Mrs. Meera Chhibber)

ORDER

S.R. ADIGE, VC (A)

In this O.A. filed on 30.4.99 applicant seeks a direction to grant him insitu promotion to the grade of Rs.2000-35000<sup>7</sup> (RPS) in Group C w.e.f. 1.4.91 with all consequential benefits including arrears of pay and allowances, difference of the amount of service gratuity, commutation and encashment of leave on revision of pay, and interest at penal market rate @ 15% on arrears from 1.4.91.

2. Applicant was appointed as Lecturer grade Rs.250-470 in Commercial and Secretariat Institute, Shakarpur, Delhi w.e.f. 22.1.69. that grade/scale

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of the post was revised from time to time and was Rs.1640-2900 w.e.f. 1.1.86. Applicant contends that he was not given a single promotion during the entire period till he retired from service on superannuation on 31.10.97. He states that he was representing from time to time, but upon receiving no response from respondents, he was compelled to file this O.A.

3. Respondents state that the next higher scale is Rs.2000-3200 which happens to be a Group 'B' scale and applicant cannot, therefore, be given insitu promotion in the background of circular dated 25.5.92 (Annexure R-11). They state that applicant had been informed of the rejection of his claim by letter dated 28.3.2000 (Annexure R-1) but without waiting for that reply, applicant had filed the present O.A.

4. During hearing Mrs. Chhibber has also raised the objection of limitation, pointing out that applicant is seeking relief w.e.f. 1.4.91 which is clearly hit by Section 21 A.T. Act.

5. During hearing, applicant's counsel Shri Ahlawat has invited our attention to respondents' order dated 4.10.99 enclosed with the rejoinder, granting various employees who were drawing Rs.2900/- and were, therefore, presumably at the maximum of the scale of Rs.1640-2900, insitu promotion to the next higher scale of Rs.2000-3200, and similarly those drawing Rs.3200/- who were presumably at the

maximum of the scale of Rs.2000-3200 insitu promotion to the next higher scale of Rs.2375-3500. Both the aforesaid higher scales are in Group B in terms of the classification of posts contained in Government of India's order below Rule 6A CCS (CCA) Rules.

6. During hearing <sup>it</sup> could not be explained as to whether the cases referred to in aforesaid order dated 4.10.99 were distinguishable from the case before us or not, and if so to what extent.


7. As regards the question of limitation, while no doubt the claim for arrears on account of insitu promotion w.e.f. 1.4.91 is hit by limitation u/s 21 A.T. Act, there is no doubt that in the event applicant were entitled to the insitu promotion, it would make a difference to the quantum of monthly pension drawn by him, which gives him a continuous cause of action.

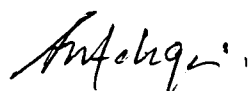
8. This O.A. is, therefore, disposed of with a direction to respondents to examine applicant's claim for insitu promotion in the background of respondents' own circular dated 4.11.99 and in accordance with rules and instructions under intimation to applicant within three months from the date of receipt of a copy of this order. If respondents hold that applicant is not entitled to insitu promotion despite the contents of order dated 4.11.99 they will record detailed reasons for coming to such conclusion. As applicant superannuated on 31.10.97 and the O.A. itself has

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been filed with considerable delay, in the event upon such examination, respondents find applicant is entitled to such insitu promotion, the same shall be granted to him only on notional basis w.e.f. 1.1.97, with actual benefits confined only to revision of applicant's retiral benefits w.e.f. 1.11.97 and payment of arrears in respect of the same w.e.f. that date.

9. The O.A. is disposed of in terms of Para 8 above. No costs.

  
(Dr. A. Vedavalli)  
Member (J)

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

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