

Central Administrative Tribunal  
Principal Bench: New Delhi

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OA No. 1216/98

New Delhi, this 06th day of August, 1998

Hon'ble Shri T. N. Bhat, Member (J)  
Hon'ble Shri S.P. Biswas, Member (A)

In the matter of:

Gurcharan Singh  
s/o Ranjit Singh,  
r/o UB-14A, Usha Park,  
Jail Road, New Delhi.

(By Advocate: Shri Surinder Singh)

Versus

Union of India through

1. Defence Secretary,  
Ministry of Defence,  
DHQ PO, New Delhi.
2. Additional Dte. General of Staff  
Duties (SD 6B),  
Army Headquarters,  
DHQ PO, New Delhi.
3. GOC  
Headquarters Delhi Area  
Delhi Cantt - 110 010.

... Respondents  
(By None)

O R D E R (ORAL)

by Hon'ble Shri T.N. Bhat, Member (J)-

Despite service of notice respondents have chosen not to appear. Proof of dasti service has been furnished by the applicant. Accordingly the respondents are hereby set ex parte.

2. Learned counsel for the applicant has taken us through the copy of the order issued by the Ministry of Defence on 29.5.95 <sup>29.5.95</sup> <sup>⊗</sup> <sup>A-6 ⊗</sup> as at annexure A-7, by which certain posts were upgraded and in pursuance to which applicant was promoted by the order dated 21.10.95 <sup>21.10.95</sup> <sup>⊗</sup> <sup>A-3 ⊗</sup> to the post of Stenographer Gr.I at Headquarter Delhi Area.

6.8.98.

(⊗) Corrected vide Court's order  
dated 13.10.95

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18/11

(3)

The applicant's contention is that in pursuance to the aforesaid order dated 27.11.1996<sup>21.10.95</sup> the applicant had joined but subsequently by the impugned order dated 11.6.1998, as at Annexure A-1, the order dated 21.10.1995 was cancelled resulting in reversion of the applicant. However, we notice that on the same date i.e. 11.6.1998, another order promoting the applicant to the post of Stenographer Gr.I and posting him to HQ Western Command, Chandimandir was passed.

3. The applicant approached this Tribunal soon thereafter by filing this O.A. on 17.6.1998. The applicant's grievance is that the promotion granted to the applicant in the year 1995 in pursuance to the recommendations of a duly constituted DPC cannot be taken away by an administrative order nor such an order could be issued with retrospective effect. It is further averred that by the order dated 27.11.1996<sup>21.10.1995</sup> the applicant was even offered the post of Senior Personal Assistant and, therefore, there was no justification to revert him to Stenographer Gr.II after 2 1/2 years. It is also contended by the learned counsel for the applicant that the applicant cannot be transferred to another place unless the promotion order dated 27.11.1996<sup>21.10.95</sup> is restored. In this regard he has relied upon the letter dated 24.4.1998 from the GOC HQ Delhi addressed to HQ Western command Chandimandir by which it has been recommended that pending finalisation of the applicant's case, he may be retained in the same grade.

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⑧ Corrected vide Ltr. order  
date 23/10/98

28/10/98

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4. From the documents annexed to the O.A. by the applicant, we find that a decision was taken for upgradation of the post and in pursuance to that decision the applicant was granted promotion on 27.11.1996. However, as per applicant's own admission there was some typographical error in the decision taken by the Ministry of Defence by the letter dated 1.11.1995 (Annexure A-7) which mentioned P.H. and H.P. instead of the HQ Delhi Area. This is also evident from the letter Annexure A-8. It is, therefore, not clear as to what was the basis on which the applicant's promotion order dated 27.11.1996 was cancelled after about 2 years.

5. However, since respondents have chosen not to appear and we are not aware of all the circumstances that have led to the issuance of the impugned order, in our considered view a direction to the respondents to consider the matter and take a final decision on the recommendation of the GOC made by the letter dated 24.4.1998 within a time fixed by us would be appropriate in the facts and circumstances of the case. In order to facilitate such a decision being taken it would also be appropriate to ask the applicant to make a detailed representation.

6. In view of the above, we partly allow the OA and direct the applicant to make a detailed representation within one month from today, on receipt whereof the respondents shall take a final decision, by means of a speaking order within a period of further two months and convey the same to the applicant. In the

*W.W.*  
② Corroborated vide cont'd  
order dated 13.10.98

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meantime the applicant shall be allowed to continue at his present place of posting.

7. With this order, the Q.A. is disposed of.

No cost.

S. P. Biswas  
(S.P. Biswas)  
Member (A)

Hyd  
6.8.98.  
( T.N. Bhat )  
Member ( J )