

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No.2153 of 1995

Dated this 24<sup>th</sup> day of December, 1999

HON'BLE MR. KULDIP SINGH, MEMBER(A)  
HON'BLE MRS. SHANTA SHASTRY, MEMBER (A)

S.D. Sharma  
S/o Pt. Basudev Sharma  
R/o RZ 686 Z/6 Gautam Bhawan  
Raj Nagar Part-I Palam Colony  
New Delhi-110045.

... Applicant

(By Advocate:Shri Gyan Prakash)

Versus

Union of India,

1. through its Secretary  
Ministry of Home Affairs  
Central Secretariat  
North Block  
New Delhi-110001.

2. The Director General, CISF  
Block No.13, CGOs Complex  
Lodi Road  
New Delhi-110003.

3. The Secretary  
U.P.S.C. Dholpur House  
New Delhi-110001.

4. Shri S.C. Gambhir  
Sr. Adm Officer, CISF HQrs  
Block No.13, CGOs Complex  
Lodi Road  
New Delhi-110003.

5. Shri V. Changrani  
Sr. Adm Officer, CISF HQrs  
Block No.13, CGOs Complex  
Lodi Road  
New Delhi-110003.

... Respondents

(By Advocate: Mrs P.K. Gupta through  
proxy Shri Anil Singhal)

O R D E R

Mrs. Shanta Shastry, M(A):

The applicant in this case joined in the  
Central Industrial Security Force (CISF) as  
Section Officer in the scale of Rs.650-1200  
(revised Rs.2000-3500) on 1.4.1981 on deputation

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from the Central Reserve Police Force (CRPF). the applicant was later on absorbed in the Central Industrial Security Force (CISF) under respondent no.2 with effect from 1.9.1983. The post of Section Officer in the CISF is General Central Service Group 'B' gazetted post. At that time, there was no channel of promotion for Section Officers.

2. There were posts of Accounts Officer in the scale of Rs.2375-3500. According to the original recruitment rules of 5.5.1979 for the post of Accounts Officer persons with accounts background were eligible for promotion to the post of Accounts Officer. Subsequently, the recruitment rules were amended by notification published on 1.7.1989 to provide promotion opportunity to the Section Officers. Accordingly, 50% of the posts of Accounts Officers were to be filled up from amongst the Section Officers of CISF cadre having three years of regular service in the grade. Thus the posts of Section Officers were made a feeder posts for promotion to the post of Accounts Officer. The applicant being senior, was promoted as Accounts Officer and took charge of the post of Accounts Officer on 16.1.1990. The next post of promotion for the Accounts Officer is that of Assistant Director (Accounts) in the scale of Rs.3000-4500. There was only <sup>one</sup> post of Assistant Director

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(Accounts). The post of Assistant Director(Accounts) can be filled both by promotion and by deputation. According to the grades from which promotion/deputation can be made, officers under the Central Government holding analogous post or posts of Accounts Officer or equivalent in the unrevised scale of Rs.840-1200/650-1200 with 7 years and 8 years service respectively in the grade are eligible for consideration to the post of Assistant Director. Similarly the departmental Accounts Officer with 7 years regular service in the grade is also eligible for consideration. The applicant would have been eligible for consideration had he remained as Section Officer because he had put in 8 years of service in the grade of Rs.650-1200. However since he was an Accounts Officer, he was not eligible for consideration when the vacancy arose in 1990 and 1992 because he had not put in 7 years of regular service in the grade of departmental Accounts Officer. Thus he lost out on his promotion to the post of Assistant Director.

4. In the meantime, two new posts of Senior Administrative Officer(SAO) in the scale of Rs.3000-4500 were created vide letter dated 18.7.1994. Here again the respondents promoted the Officers to the post of SAOs on 16.3.1995.

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They did not consider the applicant for promotion to the post.

6. Aggrieved by the action of the respondents in not considering him for promotion to the post of SAO, the applicant has approached this court with the prayer to quash the impugned orders dated 7.11.1994 and 16.7.1993 and to direct the respondents to make payment of pay and allowances to the applicant in the scale of 3000-4500 with effect from the date the respondent no.2 declared the applicant ineligible till the date of superannuation i.e. 30.11.1996 with consequential benefits.

7. It is the case of the applicant that since the post of Accounts Officer was made a promotion post for the Section Officers, for the post of SAO, the post of Accounts Officer should have been made the feeder post and not the Section Officer's post. By not doing so, the applicant has been deprived of promotion to the post. The applicant has put in 8 years of service as Section Officer as such also his case should have been considered. He was also denied promotion to the post of Assistant Director for no fault of his just because the recruitment rules for the post of Assistant Director were not amended suitably after the recruitment rules for the post of Accounts Officer had been amended.

Both ways the applicant has been put to a loss and therefore it should be made good by giving him the notional benefit of the promotion to the post of SAO. Also the Section Officers post as well as Account Officer's post are ministerial posts and are therefore on equal footing.

8. According to the respondents a proposal had been initiated to amend the recruitment rules for the post of Assistant Director(Accounts) in order to give weightage to the departmental Accounts Officers appointed by promotion from the rank of Section Officers, consequent upon the amendment of the recruitment rules for the post of Accounts Officer. But this was not agreed to and therefore, the amendment could not take place. Later on two posts of SAO have been created. However these posts are meant for administrative wing. Since the applicant had already opted for promotion to the rank of Accounts Officer and since the direct line of promotion from the rank of Accounts Officer is the post of Assistant Director (Accounts), the applicant could not be considered for the post of SAO. The respondents have followed the pattern adopted by the Indo Tibet<sup>an</sup> Border Police where also the post of SAO is filled by promotion of Section Officers who had completed 8 years of regular service in that grade. Therefore, the applicant has no case.

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9. The learned counsel for the applicant submits that the applicant has taken voluntary retirement in 1996 being disgusted and frustrated. He deserved to be considered for promotion to the post of SAO as he had the necessary qualification but for his being promoted as Accounts Officer. At the time he was promoted as Accounts Officer, he had no option.

10. After carefully listening to the pleadings, we find that the anomalous situation has arisen because the respondents failed to amend the recruitment rules for the post of Assistant Director(Accounts) following the amendment to the recruitment rules for the post of Accounts Officer. Had the applicant been considered for promotion to the post of SAO on the basis of his past service of 8 years as Section Officer, the applicant perhaps would have had no grievance. The learned counsel for the applicant has also submitted that no recruitment rules for the post of SAO had been framed when the two Section Officers, respondent nos. 4 & 5 were promoted to the post. In view of this, we feel that the applicant should have been considered for promotion to the post of SAO for the following reasons:

- i) There was no amendment to the recruitment rules for the post of Assistant

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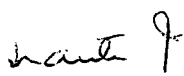
Director due to which the applicant coming from the stream of Section Officer could not get promotion when the vacancies arose. He would have had to wait for 7 years in addition to the 8 years of service already put in, in the grade of Section Officer to qualify for promotion to the post of Assistant Director (Accounts), thus pushing him back and not giving him any weightage for his service as Section Officer.

(ii) Though the applicant was promoted to the post of Accounts Officer, scale-wise the maximum of the post of Accounts Officer as well as that of the Section Officer is the same i.e., Rs.3500. So the benefit that the applicant got out of promotion to the post of Accounts Officer was only a temporary initial benefit.

iii) Since the Section Officer's post was made a feeder post for the Accounts Officer, the post of Accounts Officer should have been considered as a feeder post along with that of the Section Officer to the post of SAO. Moreover both are ministerial posts. It could not have been brushed aside by saying that the administrative wing is different than the accounts wing. The applicant had already put in 8 years of service in the grade of Section Officer. On that ground also the applicant's case should have been considered. At the time the applicant was posted as Accounts Officer, the post of SAO did not exist. It is, therefore,

unfair to have denied the applicant the promotion in both streams for no fault of his.

11. In the facts and circumstances of the case, we direct the respondents to give notional promotion to the applicant with effect from the date his juniors, i.e. respondent nos.4&5 were promoted to the post of SAO, with consequential benefits. However no arrears to be paid. No costs.

  
(Mrs Shanta Shastri)  
Member(A)

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(Kuldip Singh)  
Member(J)