

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.385/96

New Delhi this the 5th day of August 1996.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

Hon'ble Mr K.Muthukumar, Member (A)

Sh. Shankar Lal

S/o Parshadi Lal

R/o No.88, Radhyshyam

Parvana Road

Delhi - 110 051.

...Applicant.

(By Advocate: Sh. S.M.Rattanpaul)

Versus

1. Lt. Governor of Delhi through
The Chief Secretary
Govt. of NCT of Delhi
5, Sham Nath Marg
Delhi - 110 054.

2. The Secretary (Service)
Govt. of NCT of Delhi
5, Sham Nath Marg
Delhi - 110 054.

3. Joint Secretary (Service)
Govt. of NCT of Delhi
5, Sham Nath Marg
Delhi - 110 054.

4. The Director (Education)
Education Department
Govt. of NCT of Delhi
Old Secretariat
Delhi.

...Respondents

(By Advocate: Mrs Z.Hadke)

O R D E R (Oral)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

The grievance of the applicant who is a Grade II official in the D.A.S.S. is that the respondents have unjustifiably omitted to regularise his services in Grade II w.e.f. 5.9.81 when his juniors were regularised and that they have further omitted to regularise him in Grade I of D.A.S.S. w.e.f. 28.12.92 the date on which his

✓ juniors were so regularly promoted. The applicant has filed this application praying that the respondents may be directed to promote and regularise the applicant in Grade II of DASS w.e.f.5.9.81 and in Grade I of DASS w.e.f. 28.12.92 with consequential benefits. After filing this application, the applicant retired on superannuation on 31.5.96.

○ 2. Respondents in their reply have admitted that the applicant's name has been omitted in the seniority list of Grade III of DASS though he was appointed in that grade w.e.f. 12.7.67 and they have now issued orders of his regularisation in Grade II of DASS w.e.f.12.7.67. After assigning him seniority in Grade III w.e.f. 12.7.67, they took up his case for regularisation in Grade II w.e.f. 5.9.81, but the same could not be done, according to the respondents, because a disciplinary proceeding against him was pending on a charge-sheet issued under Rule 16 of CCS (CCA) Rules, 1965. The respondents, therefore, seek to justify the non-promotion of the applicant in Grade II and I respectively w.e.f. the relevant dates as he is facing a disciplinary proceeding and, therefore, he cannot be promoted and the assessment of the DPC can only be kept in a sealed cover.

○


...3

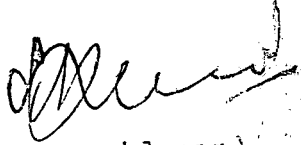
✓

3. Having heard the learned counsel on either side and having perused the material on record, we find it difficult to understand the case of the respondents. It is an admitted case that either on 5.9.1981 or on 28.12.1992 when the case of the applicant arose for consideration for regular promotion, no departmental proceeding was pending against him. The fact that some misconduct alleged to have been committed in the year 1993 for which notice under Rule 16 had been issued to the applicant should not stand in the way of promoting the applicant either on 5.9.1981 or on 28.12.1992 if he had been fit for promotion on those dates. However, we are of the considered view that the interest of justice would be met if the respondents are directed to consider the case of the applicant for regularisation in Grade II with effect from 5.9.1981 and in Grade I with effect from 28.12.1992 and to promote him to the respective grades with effect from the said dates if he is not found otherwise unfit to hold such grades at that time, within a reasonable time.

4. In the result, the application is disposed of with a direction to the respondents to have the applicant's case considered for

regularisation in Grade II and I respectively with effect from the relevant dates on which his juniors were appointed on regular basis, and if he is not found unsuitable, to promote and regularise him and issue orders regarding his promotion/regularisation and to pay him all consequential monetary benefits within a period 2 months from the date of receipt of this order. After passing such orders, the respondents shall also re-fix pensionary benefits of the applicant accordingly within a period of one month thereafter.


(K.Muthukumar)
Member (A)


(A.V. Haridasan)
Vice Chairman(J)

aa.