

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

DATED THE 14<sup>th</sup> JULY, 1997.

O.A. No.1548/1997.

HON'BLE MR. JUSTICE K.M. AGARWAL, CHAIRMAN  
HON'BLE MR. N.SAHU, MEMBER (A).

Shri R.S. Gupta,  
S/o Shri Ram Gobind Gupta,  
r/o WZ-2087/A,  
Rani Bagh, Shakurbasti,  
DELHI-34.

..... Applicant.

(BY ADVOCATE SHRI S.M.RATANPAUL)

Vs.

1. The Controller General of Accounts,  
Government of India, Ministry of Finance,  
Department of Expenditure,  
Lok Nayak Bhawan,  
New Delhi.
2. Chief Controller of Accounts,  
Ministry of Urban Development & Employment,  
Nirman Bhawan,  
New Delhi.
3. Controller of Accounts,  
Public Works Department,  
Delhi Administration,  
Mori Gate,  
Delhi.

..... Respondents.

ORDER

JUSTICE K.M. AGARWAL:

We twice heard the learned counsel for the applicant on admission, once on 7.7.1997 and then on 10.7.1997. The applicant has been promoted to the post of Assistant Accounts Officer w.e.f. 23.2.1993, but he wants his promotion retrospectively from 24.9.1990.

2. Apart from the delay in approaching the Tribunal, the applicant appears to have no case on merits. Admittedly the applicant was considered by the D.P.C. in

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the meeting dated 23.9.1990, but was then not found fit. According to the learned counsel, it was because of adverse entries in his C.R. for the period between 20.5.1988 to 31.12.1988. It was not disputed that these adverse entries were already communicated to the applicant prior to the date of the meeting of the D.P.C. and that a representation was also made by the applicant. Argument was that on the date of the meeting, his representation was pending and, therefore, the adverse entries should not have been considered by the D.P.C. It was also argued that stray entries for a year or two should not come in the way of promotion of an employee. He relied on a decision of Ahmedabad Bench of this Tribunal in **JOHN CHACKO PADICAL Vs. UNION OF INDIA AND OTHERS**, (1991)15 ATC 370.

3. We find no substance in the contention. Admittedly, the representation said to have been made, was rejected in 1992. The post of Assistant Accounts Officer appears to be a selection post and after consideration if he was not found fit by the D.P.C., he cannot have a reasonable grievance before us. The decision relied on related to a promotional post on the basis of seniority-cum-merit. That principle cannot be applied in a case of selection on merit. Only because the applicant was subsequently found fit by the D.P.C., it would give him no right to claim promotion from a retrospective date and that too, after bypassing the result of the selection process undergone by the D.P.C. in the year 1990.

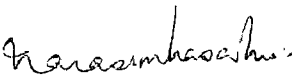
4. We have also perused the various grounds urged by the applicant in para 4.26 of his application to show that those remarks were unfounded or bad in law. We are of the view that the adverse remarks are not considered to be either minor or major penalty. They are made on the basis of overall performance of an employee and on the basis of impressions about him carried by his superiors. They are made with a view to afford an opportunity to the employee to improve his work. Courts and Tribunals have no opportunity to watch or assess the performance of an individual employee. Ordinarily

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it has, therefore, no jurisdiction to quash such adverse remarks.

5. For the foregoing reasons, we find no substance in this application and accordingly it is hereby summarily dismissed.

  
(K.M.AGARWAL)  
CHAIRMAN

  
(N.SAHU)  
MEMBER (A)

Order pronounced to-day.  
Narasimhaswami.  
14.7.97.