

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. 7/94

New Delhi, dated the 21th July, 1994

Hon'ble Sh. N.V.Krishnan, Vice Chairman(A)

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

Shri G.S. Gopala,  
As Dy. Commissioner of Income Tax,  
Ahmedabad Range-I,  
Gujrat Region, Ahmedabad.

... Applicant

(By Advocate Sh.F.F.Khurana )

V/s

1. Union of India  
Through Its Secy.  
Ministry of Finance,  
Deptt. of Revenue,  
North Block,  
Central Sectt., N/Delhi

... Respondent

(None for the respondents )

O R D E R (ORAL)

(Hon'ble Sh. N.V.Krishnan, Vice Chairman (A))

OA- 34/91 was filed in Ahmedabad by the applicant which on transfer to this Tribunal has been registered as OA 7/94. When the O.A. was received on transfer, notice was issued to the respondents. In respect of the hearing on 21.3.94, notice had been served. None was present on that day or on subsequent dates.

2. We also find that respondents had not filed any reply when the OA was filed at Ahmedabad Bench.

3. None is present today for the respondents. No reply has been filed to the O.A. In the circumstances,

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this O.A. is being disposed of after hearing the ld. counsel for the applicant.

4. The application was admitted on 23.3.91 in respect of the relief at a and b of para 8 which are as follows:-

- a) The Hon'ble Tribunal would be pleased to allow and admit this Application and direct the Respondent Government to give in accordance with his seniority promotion and placing in the Selection Grade of the applicant in the post of Deputy Commissioner of Income Tax with effect from January 1 1986 in the scale of Rs 4500-5700 with further direction and order, to place the applicant, between serial Nos 144 and 146 i.e. at Sr. No. 145, in the impugned Promotion order of 1990 of promotion or placing in the Selection Grade with effect from the 1st Jan., 1986, directing the Respondent, further to grant to the applicant all the benefits of seniority and of salary, including arrears thereof incidental benefits etc. as if the same were due and accrued from the 1st Jan., 1986.
- b) Be pleased to direct to modify the impugned order dated 23rd Aug., 1990 for promoting the applicant in the selection grade at Sr. No. 145, w.e.f. 1.1.86 within a month of the service of the order to be passed by the Honourable Tribunal."

The grievance of the applicant relates to the denial to him of the non functional Selection grade (Rs 4500-6700) which has been given to his junior. The applicant was and is a Deputy Commissioner of Income Tax. The impugned order dated 23.8.90 (Am. A3) was issued granting Selection Grade (Non-functional) to 263 Commissioner/ Dy. Commissioner of Income Tax. In this list, Sh. A.C. Choudhary, placed at Sl. No. 145 has been given this benefit w.e.f. 1.1.1986. It is contended that Sh. A.C. Choudhary is the immediate junior of the applicant as can be seen

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from the seniority list (Ann.A.2) where the applicant and Sh.A.C.Choudhary, both Scheduled Castes are respectively placed at S.No.70 and 71.

5. The applicant submitted a representation on 20.11.90 (Ann.A.4) to the Chairman, Central Board of Direct Taxes. He has stated therein that he is eligible to be given the Selection Grade which is granted on the basis of seniority subject to fitness. It is also stated that there was no pending Deptl.Enqy.or any other proceeding to deny him the functional selection grade. That representation has not been disposed. Therefore, the applicant has filed this O.A.

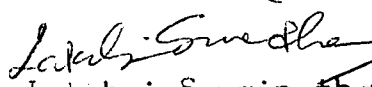
6. We have heard the learned counsel for the applicant and perused the records.


7. The important averments have been stated above. There is no reply to the O.A. The Ann.A.8 order confirms that selection grade can be given after completing 14 years service in Group A. Applicant satisfies this qualification as seen from the seniority list. Further, the impugned order, relating to Dy. Commissioner from S.No.132 (R.K.Singh at Sl. No. 53 of the seniority list) shows that selection grade was probably given on the basis of seniority-fitness. We are also of the view that this is a case where the relief sought should be directly granted without directing the respondents to consider the applicant's case. For,

the respondents have not at all shown any consideration ~~letter~~ ~~enter~~ to the application or to the notices issued to them.

8. Accordingly, we allow this O.A. with a direction to the first respondent to grant the applicant Selection Grade (Non-functional) in the grade of Rs 4500-6700 w.e.f. 1.1.1986 and place his name in the Ann A.3 order dated 23.8.90 between Sh.K.Ranghabashyam (Sl.No.144) and Sh.A.C Choudhary (S.No.145). We further direct that consequential financial benefits should be disbursed to the applicant within three months from the date of receipt of a copy of this order.

9. No costs.

  
(Smt. Lakshmi Swaminathan)  
Member (J)

  
21.7.91  
(N.V. Krishnan)  
Vice Chairman (A)