

Central Administrative Tribunal, Principal Bench

Original Application No.724 of 2000

M.A.No.949/2000

New Delhi, this the 26<sup>th</sup> day of October, 2000

Hon'ble Mr.Kuldip Singh, Member (J)

Hon'ble Mr.S.A.T.Rizvi, Member(A)

Shri S.V.Abhi

S/o Shri R.K.Abhi

Aged about 54 years

Assistant Audit Officer

Under Principal Director

Commercial Audit & Ex-officio

Member Audit Board-II

A.G.C.R.Building,

New Delhi

- Applicant

(Appeared in person)

Versus

1.Union of India

through Comptroller & Auditor General of India

10, Bahadur Shah Zafar Marg,

New Delhi

2.Principal Director of Commercial Audit

and Ex-officio Member Audit Board-II

A.G.C.R.Building

Vth Floor, B. Wing

New Delhi

- Respondents

(By Advocate - Shri M.K.Gupta)

ORDER

By Hon'ble Mr.Kuldip Singh, Member(J)

The applicant, who is an employee of the office of Respondent no.1, is aggrieved by the fact that some disciplinary enquiry is pending against him which has been delayed and because of that, the applicant has not been promoted to the next higher post.

2. The applicant had earlier filed C.W.P.No.3551/97 before the High Court of Delhi which was disposed of vide Annexure A-1. Thereafter he filed the C.M.P. Nos.1919-20/2000 before the Hon'ble

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High Court of Delhi which were disposed of by order dated 14.3.2000 (Annexure A-2) and applicant was directed to first approach the Central Administrative Tribunal. (7)

3. It appears that before the Hon'ble High Court, the applicant had not disclosed that earlier he had filed an OA-1495/89 before the Tribunal for reconsideration for promotion. That O.A. was dismissed.

4. The applicant has now pleaded that in the earlier O.A., the respondents had pleaded about some enquiry and he placed on record a letter dated 26/29.3.85 and submitted that the said enquiry has not been finalised. He had further submitted that the same was not being finalised by respondents so as to deny him promotion.

5. The respondents have contested the OA. They have stated that in earlier OA filed by applicant seeking promotion, applicant had prayed for promotion without being influenced by adverse remarks recorded in his ACR for the years 1983-84 and 1984-85. Since he had not sought for expunction of remarks, the OA was dismissed. Then the applicant had filed CWP-3551/97 on which orders Annexure A-1 and Annexure A-2 were passed. Respondents have also pleaded that applicant was informed vide Annexure R-IV that no memo was issued under CCS (CCA) Rules. It is also submitted that respondents had considered the applicant for promotion to next higher post of Audit

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Officer but he was not recommended by the DPC from time to time. Hence, it is prayed that O.A. be dismissed.

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6. We have heard the applicant and Shri M.K.Gupta, counsel for the respondents.

7. The main ground taken by the applicant is that since some disciplinary enquiry is pending against him, respondents are denying promotion to applicant. In this regard, we find that the respondents vide memo R-IV have clarified that no enquiry under CCS (CCA) Rules was ever initiated against the applicant, so question of denying him promotion on the basis of some pending enquiry, does not arise. The applicant has referred to letter dated 26/29.3.85 as if some enquiry was initiated by that letter. But R-IV clarifies the stand of respondents in regard to letter dated 26/29.3.85 itself.

8. The applicant had earlier filed an OA seeking consideration for promotion without being influenced by adverse CRs in 1983-84 and 1984-85, which had already been dismissed. The recommendations of DPC subsequent to that has not been challenged in this OA.

9. Hence, we are of the considered opinion that O.A. of applicant has no merits and the same deserves

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to be dismissed. We, therefore, dismiss this OA. No costs.

*S. A. T. Rizvi*  
(S.A.T. Rizvi)  
Member (A)

*Kuldip Singh*  
(Kuldip Singh)  
Member (J)

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