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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-1495/89

Date of decision: 22.5.1992

Shri S.V. Abhi Applicant

Versus

Comptroller & Auditor
General of India and
Another Respondents

For the Applicant Shri B.S. Mainee, Advocate

For the Respondents Shri P.H. Ramchandani, Advocate

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. I.K. Rasgotra, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

The applicant, who is working as an Assistant Audit Officer in the office of the respondents, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:-

- (i) To direct the respondents to reconsider his case for promotion to the post of Audit Officer without being influenced by the alleged adverse entries for the period 1983-84 and 1984-85; and
- (ii) to direct them to include his name at the appropriate place in the list of officers who have

been promoted as Audit Officers by order
dated 29.6.1989.

2. We have gone through the records of the case carefully and have heard the learned counsel for both the parties. The admitted factual position is that the post of Audit Officer is a selection post ^{for} and promotion to such a post the applicant has only a right to be considered along with the other eligible candidates in the zone of consideration. A meeting of the Departmental Promotion Committee was held on 3.5.1989 to consider the suitability of Assistant Audit Officers for promotion to the post of Audit Officer. The name of the applicant was also in the zone of consideration and his suitability was also considered by the D.P.C. The D.P.C., however, did not recommend the name of the applicant for promotion as he was found unfit for promotion as Audit Officer. The D.P.C. had taken an overall view of the performance of the applicant as reflected in his annual confidential reports.

3. The applicant has stated that he was promoted as Assistant Audit Officer w.e.f. 1.3.1984. According to him, nothing adverse was communicated to him except for the period 1983-84 and 1984-85. The adverse remarks for the year 1983-84 were communicated to the applicant on 19.1.1985. The representation submitted by him against

those remarks was rejected on 22.8.1985. The adverse remarks for the period 1984-85 were communicated to him on 12.7.1985 and his representation against those remarks was rejected on 27.1.1986.

4. The applicant has contended that the adverse remarks came to be recorded in his confidential report as Shri Om Prakash, Audit Officer, was not favourably disposed towards him. According to him, he had worked under Shri R.D. Trivedi, Audit Officer and not Shri Om Prakash. He has stated that while he was working under Shri Trivedi, Shri Om Prakash, under whom he had worked earlier also, entrusted some additional work to him. He, however, objected to the said additional work on the ground that he was working under Shri Trivedi and that Shri Om Prakash had no jurisdiction to entrust additional work to him.

5. According to the respondents, the work entrusted to the applicant was under the charge of both Shri Om Prakash and Shri Trivedi. The respondents have informed the applicant by Memo. dated 21.8.1984 that he was answerable to both the Audit Officers.

6. The applicant has stated that the adverse entry for the year 1983-84 is unjustified and illegal as he had been promoted from the post of Section Officer to the post of Assistant Audit Officer w.e.f. 1.3.1984.

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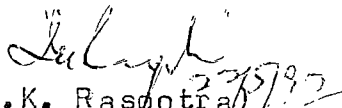
The version of the respondents is that the confidential report for the year 1983-84 was written subsequent to the issue of the orders of promotion of the applicant in February, 1984.

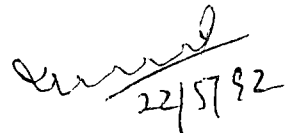
7. The respondents have stated that with regard to the confidential report for the year 1984-85, the reporting officer was Shri Om Prakash.

8. The applicant has not sought for expunging the adverse remarks in his confidential report for the years 1983-84 and 1984-85. In our opinion, he cannot indirectly seek ^{for a} any direction to the respondents ~~to consider his promotion to the post of Audit Officer by ignoring the adverse remarks in respect of which the representations made by him have been rejected by the respondents.~~

9. The Tribunal cannot also issue a direction to the respondents to include the name of the applicant in the list of officers approved for appointment as Audit Officer based on the recommendation of the D.P.C. as the Tribunal cannot sit in judgement over the assessment made by the D.P.C.

10. In the light of the foregoing discussion, we see no merit in the present application and the same is dismissed. There will be no order as to costs.


(I.K. Rasgotra)
Administrative Member


22/5/92
(P.K. Kartha)
Vice-Chairman (Judl.)