

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

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O.A. No. 1194/88
T.A. No.

199

DATE OF DECISION 5.4.1991.

<u>Shri M.M. Gupta</u>	Petitioner Applicant
<u>Shri T.C. Aggarwal</u>	Advocate for the Petitioner(s) Applicant
Versus	
<u>Union of India through</u>	
<u>Controller Genl. of Accounts</u>	Respondent
<u>Shri P.H. Ramchandani</u>	Advocate for the Respondent(s)

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

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? */ No*
4. Whether it needs to be circulated to other Benches of the Tribunal? */ No*

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

The prayer contained in this application filed under Section 19 of the Administrative Tribunals Act, 1985 is that the seniority of the applicant should be restored to its original place, and that the applicant should be confirmed from the due date with all consequential benefits.

2. The facts of the case in brief are that the applicant joined Government service in 1956. After passing the S.A.S. Examination in 1965 and Revenue Audit Examination in 1966, he was appointed to the

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post of Section Officer (Junior P.A.O.) in the
A.G.C.R.

3. The scheme of departmentalisation of Accounts in the Central ministries/departments was introduced between 1.4.1976 and 1.4.1977. An Advisory Committee was constituted for implementation of the scheme in 1976. The applicant was then on deputation to Delhi Administration. According to the applicant, his case was not, therefore, considered by the said Committee. On repatriation from deputation, he pointed out this fact, as a result of which a fresh Committee was constituted and orders were made to transfer him to the Controller of Accounts, Ministry of Information & Broadcasting.

4. The applicant has stated that in this process, many juniors of his were earlier promoted to the next higher grade of P.A.O. ^{On} ~~On~~ resuming duty, the applicant was also promoted as P.A.O. He has contended that his case for confirmation in the grade of P.A.O. was intentionally delayed by the respondents. According to him, he was due for confirmation w.e.f. 1.1.1982, but was confirmed only in 1985.

5. The respondents have stated in their counter-affidavit that the case of the applicant for confirmation as Pay & Accounts Officer was considered by a D.P.C. held on 18.5.1985 along with 202 other officers, both junior and senior to him, but the applicant and two other officers were not found fit for confirmation by the D.P.C. According to them, the D.P.C. could not recommend him for confirmation in the first instance. He was, however, found fit for confirmation by the D.P.C. held on 14.4.1986 and was confirmed w.e.f. 1.5.1985.

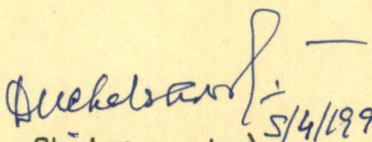
6. The respondents have relied upon the O.M. No.9-11/55/RPS dated 22.12.1959, issued by the Ministry of Home Affairs, according to which, the date of confirmation determines the order of seniority.

7. We have carefully gone through the records of the case and have considered the rival contentions. We see no merit in the contention of the applicant that merely on the ground of his seniority, he should be confirmed in the post held by him. In service, there could be only one norm for confirmation or promotion for persons belonging to the same cadre. It is that no junior shall be confirmed or promoted without considering the case of his senior (vide

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Balkishan Vs. Delhi Administration & Another, 1989(2) SCALE, 819 at 822). In the instant case, the applicant was also considered for confirmation along with his juniors and seniors, but was found unfit at the meeting of the D.P.C. held on 18.5.1985. The D.P.C. held subsequently on 14.4.1986, found him 'Fit' and, accordingly, he was confirmed w.e.f. 1.5.1985. In the result, we hold that the applicant is not entitled to the reliefs sought by him.

There will be no order as to costs.


(D.K. Chakravorty) 5/4/89
Administrative Member


(P.K. Kartha)
Vice-Chairman(Judl.)