

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 1836/2020



Today this the 19th day of November, 2020

Through video conferencing

**Hon'ble Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A. K. Bishnoi, Member (A)**

Smt. Suresh Singhal
Aged about 60 years
W/o Sh. Ravinder Singhal
R/oWZ-13, Gali No. 8
Sadh Nagar, Palam Colony
New Delhi
Mobile No. 9289614016

... Applicant

(through Dr. Puran Chand)

Versus

1. The Secretary
Ministry of Commerce & Industries
Govt. of India, Udyog Bhawan
New Delhi 110001.

2. The Controller General of Patents
Designs & Trade Marks
Boudhik Sampada Bhawan
1st Floor, S.M. Road
Antop Hill, Mumbai-400037.

3. Senior Joint Controller of Patents &
Designs Intellectual Property Office
Ministry of Commerce & Industries
Boudhik Sampada Bhawan
Plot No. 32, Sector 14, Dwarka
New Delhi-110075. ... Respondents

(through Sh. Ranjan Tyagi)

Order (Oral)

Justice L. Narasimha Reddy:



The applicant was holding the post of Assistant Administrative Officer in the establishment of Controller General of Patents Designs and Trade Marks, i.e. the 2nd respondent herein since 24.05.2011. The next promotion is to the post of Administrative Officer in the Grade Pay of RS.5,400/- in the pay scale of Rs.15600-39100. The applicant filed OA.825/2019 complaining that the respondents are delaying the promotion and that he is attaining the age of superannuation. The OA was disposed of on 13.03.2019 with a direction to the respondents to consider the representation filed by the applicant and pass orders in accordance with law within 90 days.

2. It is stated that DPC for promotion to the post of Director met on 26.02.2020 and the case of the applicant was also considered. However, he retired from service on 29.02.2020. The applicant made several representations and filed applications under Right To Information Act. Through a communication dated 16.09.2020, the respondents informed the applicant that his case was considered for promotion along with three other candidates and the competent authority accorded approval only on 16.03.2020 for two officers, namely, the applicant and one Sh.Bhatkar. The

grievance of the applicant is that he is not promoted to the post of Director.



3. We heard Dr.Puran Chand, learned counsel for the applicant and Sh.Ranjan Tyagi, learned counsel for the respondents.

4. It is rather a hard case for the applicant in as much as though he became eligible for the post of Director, there was delay in convening the DPC. Ultimately DPC was convened on 26.02.2020 and he figured at S1.No.1 in the panel recommended by the DPC. Before any tangible steps could be taken on the basis of the recommendation of DPC, the applicant retired on 29.02.2020. The competent authority is said to have accorded approval for promotion only on 16.03.2020.

5. The law is fairly well settled to the effect that a retired person cannot be promoted. The only exception to that is where an officer who is junior to him was promoted with effect from the date, earlier to his retirement. In case any Assistant Administrative Officer who is junior to the applicant is promoted to the post of Administrative Officer with effect from any date earlier to 29.02.2020, the applicant deserves to be extended the benefit of promotion on notional basis. If on the other hand the promotion is effective from any dates subsequent to 29.02.2020, no benefit would be accrued to the applicant.

6. With the above observation, we dispose of the OA accordingly. There shall be no order as to costs.



(A. K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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