

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

O.A. No. 76/2015

Today, this the 4th day of December, 2020

Through video conferencing



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

Gautam Majumdar
S/o late Sh. Debendra Majumdar
R/o D-201 Ganesh Nagar
Pandav Nagar Complex
Delhi-110092. ...Applicant

(By Advocate : Shri U. Srivastava)

Versus

Govt. of NCT of Delhi through

1. The Chief Secretary
Govt. of NCT Delhi, Delhi Secretariat
IP Estate, New Delhi.
2. The Secretary (Services)
GNCT of Delhi, Service Department
Services-I Branch, Delhi secretariat
7th level, 'B' Wing, IP Estate New Delhi.
3. The Secretary
Delhi Commission for Women
GNCT of Delhi, C-Block, 2nd floor
Vikas bhawan, IP Estae, New Delhi.
4. Sh. Rajesh Kumar (Seniority No. 3608)
Dy. Secretary, DSSSB
Govt. of NCT of Delhi

(Notice to the respondent no. 4 may be served
through the respondent no. 2)

..Respondents

(By Advocate : Shri Swetank Shantanu)

ORDER (ORAL)



Mr. Justice L. Narasimha Reddy, Chairman :

The applicant joined the service of the Delhi Administration as Head Clerk, which is in Grade II. Thereafter, he was promoted to the post of Superintendent Grade I of Delhi Administrative Selection Services (DASS). Next promotion is to the Ex cadre post of DANICS. Though his juniors were promoted in the year 2012, the case of the applicant was not considered. Same thing was repeated in subsequent selections also. This OA is filed with a prayer to direct the respondents to consider the case of the applicant for promotion to the Ex cadre post of DANICS, in accordance with the relevant rules. The applicant contends that there was absolutely no basis for the respondents in denying him the promotion, even while promoting his juniors.

2. On behalf of the respondents, a detailed counter affidavit is filed. It is stated that the DPC met on 06.11.2012 for promotion to the Ex cadre post of DANICS, but the case of the applicant was not considered on account of pendency of criminal case referable to FIR No. 53/06 filed against him and registered by Anti



Corruption Bureau (ACB). It is also stated that the DPC met again on 22.11.2013 and the same situation prevailed at that time also.

3. We heard Shri U. Srivastava, learned counsel for the applicant and Shri Swetank Shantanu, learned counsel for the respondents.

4. The issue in the OA is about the promotion of the applicant to the Ex cadre post in DANICS. On account of his seniority, he was very much in the zone of consideration. In fact, his case was considered by the DPC which met on 06.11.2012. The non-selection of the applicant was on account of pendency of criminal case registered in the year 2006 under FIR No.53/06, registered by the ACB. Serious allegations were made against the applicant by some other officers. As a matter of fact, the sanction for prosecution was also accorded on 19.04.2010. Once the applicant is facing prosecution in a criminal case, the question of his being considered for promotion does not arise. It is not known whether the sealed cover procedure was followed. That would become relevant, if the applicant is acquitted.

5. We do not find any merit in the OA and accordingly the same is dismissed.

There shall be no order as to costs.



(A. K. Bishnoi) (Justice L. Narasimha Reddy)
Member (A) Chairman

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