



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No. 1323/2017

Friday, this the 25th day of September, 2020

(Through Video Conferencing)

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

Harsh Prakash s/o late Dr. N Prasad
Aged about 53 years
r/o Room No.601
Wanaparthi Block, 6th Floor
Aayakar Bhawan
121, MG Road,
Chennai – 600064

...Applicant

(By Advocate: Mr. Apurb Lal)

Versus

1. Union of India, Ministry of Finance
Through its Secretary Revenue
North Block,
New Delhi – 110 001
2. Chairman
Central Board of Direct Taxes
Ministry of Finance
North Block, New Delhi – 110 001

...Respondents

(Dr. Ch. Shamshuddin Khan, Advocate)

ORDER (ORAL)

Justice L. Narasimha Reddy:

The applicant was appointed as Assistant Commissioner of Income Tax in the year 1987. Thereafter, he



was promoted to the post of Deputy Commissioner of Income Tax in 1998 and Joint Commissioner of Income Tax in 1999. In the succeeding year, he was promoted as Additional Commissioner of Income Tax on 24.10.2000.

The promotion to the post of Commissioner of Income Tax (CIT) took place in August, 2007. On account of the fact that his APARs of the applicant for the relevant year were not 'up to the mark', he was treated as unfit, by the DPC and 34 Additional Commissioners, who were juniors to him, were promoted as CITs. He was promoted as CIT at a latter stage and further promoted as Principal CIT on 27.04.2015 on *ad hoc* basis. The regular promotion to the post of Principal CIT was made through order dated 17.03.2017. However, the applicant was shown at Sl. No.290. According to the applicant, 34 officers, who were junior to him, were placed above him. This O.A. is filed with a prayer to set aside the order dated 20.02.2017 and to restore the seniority of the applicant in the post of CIT.

2. The applicant contends that though he was earlier denied promotion to the post of CIT and 34 juniors to him, have superceded him, he was promoted to that post w.e.f. 28.07.2007 and that there was no justification for the respondents in treating him as junior to those 34 officers.



3. The respondents filed a detailed counter affidavit. They dispute the statement made by the applicant as regard the promotion to the post of CIT. According to them, the plea of the applicant that he was promoted to the post of CIT w.e.f. 28.07.2007 is flatly denied and according to them, the promotion of the applicant to that post was w.e.f. 25.07.2008.

4. We heard Mr. Apurb Lal, learned counsel for applicant and Dr. Ch. Shamshuddin Khan, learned counsel for respondents.

5. The upward movement of the applicant ever since he joined was smooth, upto to the post of Additional Commissioner of Income Tax. However, he met a roadblock in the year 2007 when promotion to the post of CIT was taking place. He was superceded by 34 of his juniors. The reason was that his APARs for the relevant year were below benchmark. While the applicant states that he was promoted later on w.e.f. 28.07.2007 on par with his juniors, it is flatly denied by the respondents. According to them, the applicant was promoted to the post of CIT on 25.07.2008. In other words, he remained junior to 34 officers, who were promoted as CIT in the year 2007.

6. Though the applicant stated that his ACRs, which came in the way of promotion in the year 2007, were upgraded,



there is nothing on record, to disclose that any Review Departmental Promotion Committee was convened to consider his case for promotion, with reference to the year 2007. That not having taken place, he remained junior to 34 officers who superceded him when promotion took place to CIT in the year 2007. Naturally, the same trend continued when the promotion to Principal CIT was also made.

6. We do not find any merit in this O.A. It is accordingly dismissed. There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

September 25, 2020

/sunil/jyoti/ankit/sd/