

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No. 1125/87.

Date of decision 23.12.92

Shri K.K. Khanna ... Applicant

v/s

Union of India ... Respondents
and Others.

CORAM:

The Hon'ble Mr. Justice U.C. Srivastava, Vice-Chairman (J)

The Hon'ble Ms. Usha Savara, Member (A)

For the Applicant ... In person

For the Respondents ... Shri M.L. Verma, counsel

JUDGEMENT

Delivered by Hon'ble Mr. Justice U.C. Srivastava, VC(J)

This application was filed by the applicant who is not present apparently retired some six days before attaining the age of superannuation. He was earlier Deputy Controller of Accounts in the Department of Agriculture and Cooperation. By this application he has challenged the notification dated 12.2.1987 issued by the Government of India appointing him to the post of Deputy Controller of Accounts by operating the post of Controller of Accounts in the Senior Time-Scale.

Further prayed that the respondents be directed to appoint him to the post of Controller which was sanctioned as early as in 1976 and 1977 and be also directed to fix with effect from 1.1.1987 his pay in the Time-Scale of Rs. 3700-5000 of the sanctioned post of Controller of Accounts under the normal fundamental rule 22(C).

2. According to the applicant, the applicant earned promotion on selection basis on merit-cum-seniority in the year 1986 to the post of Deputy Controller of Accounts in the Department of Agriculture and Cooperation. This appointment was in the cadre of Indian Civil Accounts Service and was notified on 12.2.1987. Even though the applicant has been working as Controller of Accounts since then but his salary in the post of Deputy Controller of Accounts (Rs.1100-1600) has been paid to him instead of as Controller of Accounts (Rs. 1500-2000) on which he has been working. Earlier also few officers of the Department whose names have been given held this very post and drew the pay in the prescribed payscale of the post but the applicant has been deprived of the same.

3. The respondents in their return have pointed out that appointment to these posts of Controller of Accounts and Deputy Controller of Accounts ^{which} are the cadre posts of Indian Civil Accounts Service, which is controlled by the Controller General of Accounts, Department of Expenditure. The appointment to these posts are given effect on the basis of nominations made by the Office of the Controller General of Accounts and are also approved by the Controller General of Accounts, Department of Expenditure.

4. The order of promotion of the applicant by operating the post of Controller of Accounts as Deputy Controller of Accounts issued by the Controller General of Accounts, Department of Expenditure of 30th December, 1986 and the applicant assumed the charge of the post on 1st January, 1987 and this appointment was made by operating the post of Controller of Accounts, at a lower level, in the Senior Time-Scale and he was never appointed as Controller of Accounts, which is a promotion post for Deputy Controller of Accounts. The applicant cannot claim the said post or the benefits, monetary or other of the same. He was appointed only

consequent upon his being approved for officiating promotion and not as Controller of Accounts and was never asked to perform the duties/responsibilities of Controller of Accounts. This fact indicates that the applicant was not appointed to the post of Controller of Accounts if the posts were down graded. The same could not be taken to mean that he, in fact, was appointed as Controller of Accounts not having been appointed as Controller of Accounts. In accordance with law he cannot claim benefit to the same even if duties of the said office were held/perform by him, and accordingly none of the reliefs claimed by the applicant are admissible and as such the application deserves to be dismissed and is dismissed, ^{in order} ~~as per~~ ^{U.C.}

Usha Savara
Usha Savara 23/12/92
Member (A)

U.C.
U.C. Srivastava
Vice-Chairman (J)