

Central Administrative Tribunal
Principal Bench, New Delhi.

O.A.No.391/91

New Delhi this the 2nd Day of June, 1995.

Hon'ble Sh. J.P. Sharma, Member(J)
Hon'ble Sh. B.K. Singh, Member(A)

Shri D.M. Sharma,
Asstt. Accounts Officer,
S/o late Shri A.S. Sharma,
R/o X-328, Sarojini Nagar,
New Delhi-23.

Applicant

(through Sh. Y. Krishan, advocate)

versus

1. Govt. of India,
Ministry of Finance,
North Block,
New Delhi-1.
2. Controller General of Accounts(CGA)
Ministry of Finance,
Department of Expenditure,
Lok Nayak Bhawan,
8th Floor, Khan Market,
New Delhi-2.
3. Chief Controller of Accounts(CGA),
Ministry of Finance,
Deptt. of Economic Affairs,
Room No.241-A,
North Block,
New Delhi-1.

Respondents

(through Sh. P.H. Ramchandani, Sr.advocate)

ORDER

delivered by Hon'ble Sh. B.K. Singh, Member(A)

This O.A.No.391/91 is directed against letter No.A.20012(121) PrAO/MF/DEA/Estt/922 dated 22.10.1990 rejecting the request of the applicant for ante dating his seniority and stepping up of his pay at par with juniors who were promoted earlier.

The admitted facts are that the applicant was promoted on 11.10.1988 as a result of D.P.C. held on 3.10.1988 whereas some of the juniors working in other Ministries/Departments/attached



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offices were promoted on 24.6.1988 and 30.6.1988 in view of the earlier meeting of the D.P.Cs. in those departments. The cases cited in the present O.A. are that of one Asstt. Accounts Officer working in the Central Board of Direct Taxes and 3 others working in the Ministry of Urban Development. There is an averment that there was a delay in holding the D.P.C. in the Department of Economic Affairs in which he is working.

Ministry of Finance, Government of India,
Department of Expenditure, Controller General of
Accounts vide his letter No.
A.32016/6/87/MF-CGA(A)/JAOs/2044 dated 14/17.6.1988
has issued certain guidelines for promotion of
Junior Account Officers working in the various
Ministries to the grade of Assistant Accounts
Officer. This is as a result of restructuring of
80% posts in the pay scale of Rs. 2200-4000/- in
place of Rs.2375-3500/-. These Assistant Accounts
Officers have been approved for promotion against
the upgraded posts as Assistant Accounts Officers.
The post of Junior Accounts Officer carried the pay
scale of Rs.2000-3200/-. The said letter issued by
the Ministry clearly indicated that all the
CCAs/CAs/Dy.CAs were required to take further action
for holding of D.P.C. and that promotion of Junior
Accounts Officers as Assistant Accounts Officers as
per guidelines given in that OM. Para-3 stipulates
that CRs for five years from the year 1983 to 1988
would be considered by the DPCs. If a JAO has not
completed 5 years service, CRs of the period of

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service as JAO upto 1987 may be considered by the D.P.C. Para-4 indicates that all other guidelines and instructions will remain the same as contained in O.M. dated 31.8.87. The most important paragraph of this O.M. is contained in para-5. It lays down as follows:-

"These promotions will, however, be effective from the date orders are issued by the respective Ministries/Deptts. on the recommendation of Departmental Promotion Committee."

It was further clarified that those officers who are on deputation would be eligible to get proforma promotion when the D.P.C. finds them fit for promotion.

The reliefs prayed for by the applicant are to direct the respondents to ante date his promotion as Assistant Accounts Officer from the date not later than 24.6.1988 when his juniors were promoted with all consequential benefits of arrears of pay etc.

On notice the respondents filed their reply contesting the application and grant of reliefs prayed for.

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We heard the learned counsel Sh. Y. Krishan for the applicant and Sh. P.H. Ramchandani, Sr. counsel for the respondents and perused the record of the case.

The learned counsel for the applicant argued that there should be only one cadre and there should be only a common D.P.C. convened by the Cadre Controlling Authority for promotion from the grade of Junior Accounts Officer to the rank of Assistant Accounts Officer on the basis of seniority list available with Cadre Controlling Authority. On this basis he filed a representation to respondent No.2 in October, 1988 for ante dating his promotion to 24.6.1988 but the same was rejected by respondent No.2 on grounds that the cadre of AAO/JAO was local, Ministry-wise and Department-wise and, therefore, the question of stepping up of pay or ante dating promotion from a date earlier than when D.P.C. met in that department and declared him fit for promotion does not arise. These reasons were communicated to the applicant on 22.10.1990. He made a fresh representation on 30.10.1990 and on 9.11.1990 reiterating the view that the cadre of AAO/JAO was not local or Ministry wise/Department-wise and that gazette notification for creation of Central Civil Accounts Service was published vide G.S.R.No. 134 of 20.02.1990. It is a cadre controlled by C.G.A. (Respondent No.2). Recruitment Rules have been referred to by the applicant but it may be clearly stated here that these recruitment rules pertain to a new service

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called Central Civil Accounts Service created by Government of India and included as one of the Central Services for recruitment by U.P.S.C. and on the basis of the Recruitment Rules, 66 2/3% will be by direct recruitment and 33 1/3% will be by promotion. During the course of arguments the learned counsel referred to a junior having been promoted in C.B.D.t. earlier than the applicant. C.B.D.T. is not a part of the Department of Economic Affairs. C.B.D.T. is an attached office of the Department of Revenue, Ministry of Finance and C.B.D.T. has its own D.P.C. and the D.P.C. that meets in Revenue Department for promotion of its officers has nothing to do with the D.P.C. convened for promotion of J.A.O. to the rank of A.A.O. by C.B.D.T. Similarly, Urban Development Ministry has already two departments, Deptt. of Works & Housing and Department of Urban Development and these have their own cadres of JAO from which the promotion will take place to the rank of A.A.O. against the vacancy available in that department. Similar is the case with Central Electricity Authority under the Ministry of Power and Central Water Commission under the Ministry of Irrigation. Both the C.E.A. and C.W.C. are attached offices and they have separate D.P.Cs for promotion of officers working as J.A.Os in those attached offices whereas Ministry of Power and Ministry of Irrigation have their own D.P.Cs. This is the reason why in reply to the representation filed on 30.10.90 and 9.11.90, respondent No.2 reiterated the earlier decision and clearly stated that the cadre is local

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and is Ministry-wise/Department-wise. This has been amply clarified in the O.M. issued by Ministry of Finance, the extract of which has been quoted in the body of the order above. The para-5 of the O.M. shows that the D.P.Cs. will meet in the various Ministries/Departments and on their recommendations, the promotions from the rank of J.A.O. to the rank of A.A.O. will be made. This makes the position abundantly clear. It is true that certain officers were promoted on 24.6.1988 in the attached office of C.B.D.T. and a few more in Urban Development Ministry on 30.6.1988. But this cannot be a cause of grievance to the applicant since it does not affect his seniority. There was a slight delay in holding the D.P.C. meeting and the respondents have given the chronological sequence why there was slight delay of a couple of months in finalising the recommendations of the D.P.C. There is no abnormal delay. The applicant was promoted on 11.10.1988 after the recommendation of the D.P.C. whereas the D.P.C. met earlier in C.B.D.T. and promoted a junior on 24.6.1988 and the D.P.C. met in Urban Development Ministry and promoted three J.A.Os. on 30.6.1988. The difference is marginal. We do not find any inordinate delay after the issue of the circular by the Ministry of Finance in holding the D.P.C. by the Department of Economic Affairs which is an integral part of the Ministry of Finance.

It was rightly argued by the learned counsel for the respondents that one of the pre conditions for stepping up of pay under FR 22(c) or

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for the date of increment under FR 27 is that both junior and senior should belong to the same cadre. The applicant has wrongly pleaded that he and his junior in C.B.D.T. belong to the same cadre. C.B.D.T. is an attached office of the Revenue Department of the Ministry of Finance and the D.P.Cs. convened in these attached offices are different from the functioning of DPCs in the Department of Economic Affairs, Ministry of Finance and also in other Ministries. It was further argued that there was no centralise cadre of J.A.O. Promotions have to be made by D.P.Cs. of the Ministries/Departments/Attached offices locally from insiders working as J.A.O. and if cadre is now centralised at the level of the A.A.O., it is because of the creation of a new service in the list of Central Services known as Central Civil Accounts Service, the Recruitment Rules of which have now been duly notified by Government of India, Ministry of Finance, Department of Expenditure. Notification of new Recruitment Rules does not help the applicant in any way. O.M. of 1988 contains the guidelines for holding of D.P.Cs. and making recommendations for promotion to be strictly based on the basis of these recommendations. This O.M. has been issued in 1988 in continuation of previous O.M. of 1987 and since these O.Ms. supplement the rules, they have a mandatory force. Neither the O.M. of 1987 nor the O.M. of 1988 which prescribes the guidelines for promotion are under challenge before this Tribunal and unless para-5 of the O.M. issued in 1988 is struck down, there is no scope for

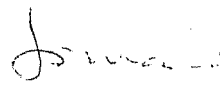


stepping up of the pay at par with junior promoted in C.B.D.T. and others promoted in the Ministry of Urban Development. The seniority is not affected in any way and the applicant will get his future promotions on the basis of his seniority. Even assuming that cadre of the A.A.Os. is centralised, it does not entitle the applicant to claim ante dating promotion or stepping up of his pay. The so called juniors belong to different cadres and the promotions have to be made by the Ministries/Departments/Attached Offices.

In the light of the aforesaid observations, the application fails and is dismissed as such, leaving the parties to bear their own costs.


(B.K. Singh)

Member(A)


(J.P. Sharma)

Member(J)

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