

Central Administrative Tribunal  
Principal Bench, New Delhi.

O.A.No.455/91

New Delhi this the 13th Day of July, 1995.

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

Shri K.K. Bagga,  
Section Officer,  
Office of the Dy. Controller of  
Defence Accounts,  
Metcalfe House, Delhi-54. Applicant

(through Sh. S.S. Bhalla, advocate)

## versus

1. Secretary to the Government of India,  
Ministry of Defence, South Block,  
New Delhi.
2. Controller General of Defence Accounts,  
West Block V, R.K. Puram,  
New Delhi-22.
3. Controller of Defence Accounts,  
'L' Block, Near North Block,  
New Delhi.
4. Shri R.S. Maurice,  
A.A.O.,  
Office of the Dy. Controller  
of Defence Accounts,  
Metcalfe House, Delhi-54.

(through Sh. M.L. Verma, advocate)

**ORDER(ORAL)**  
delivered by Hon'ble Sh. J.P. Sharma, Member(I)

The applicant has been working as Section Officer in the office of the Deputy Controller of Defence Accounts, Metcalfe House, New Delhi. He was promoted as Asstt. Accounts Officer with effect from 15.10.1992. His grievance, as presented in the O.A. filed on 11.2.1991, is that he should have been promoted in the D.P.C. held in August, 1990 alongwith others and his promotion be anti dated.

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The relief prayed for is that he should be promoted as Assistant Accounts Officer w.e.f. 15.10.1992 and should be compensated for the damages suffered by him to the tune of Rs. two lakhs.

The respondents on notice contested this application by filing a reply denying the various averments made by the applicant stating that the entry given to the applicant for the year 1989-1990 was adverse and the same was considered by the D.P.C. due to which the applicant could not be recommended for promotion in the D.P.C. held in August, 1990. The applicant has also filed a rejoinder in which he has stated that the A.C.R. for the year 1989-1990 was not communicated to the applicant before the meeting of the D.P.C. and was communicated thereafter when the D.P.C. had already made recommendations. Against it, the applicant had made representation in October, 1990. He has, therefore, prayed that his promotion be anti dated.

We heard Sh. S.S. Bhalla on earlier occasions also, the applicant also yesterday in the absence of Sh. Bhalla and Sh. Bhalla is present today. Since none was appearing on behalf of the respondents earlier, we directed the respondents to produce the relevant records. When the respondents after notice did not appear, we directed the applicant to file an affidavit to the effect as what has happened to the representation made by him against the adverse remarks of the year 1989-1990, a copy of the representation being filed as an annexure. The

applicant firstly filed a vague affidavit on 24.5.95 in which he has deposed on oath that the adverse remarks given to him were expunged by the concerned authorities in 1991.

The departmental representative produced the records before us and Sh. M.L. Verma also argued the case of the respondents. We find this deposition by the applicant on oath is a false statement and he has made a statement knowingly for what is making is true. We, therefore, find that this is a case of ~~perjury~~ <sup>un</sup> in the course of the proceedings by the applicant. However, Sh. S.S. Bhalla graciously states that he does not press this affidavit and this may be taken as withdrawn. It is also stated that since the result of the representation of the applicant was not conveyed to the applicant, he naturally thought in the manner what he has deposed in para-7 of the affidavit. In any case, we do not inclined to take action on this affidavit as it has been withdrawn by the learned counsel Sh. Bhalla.

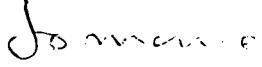
On merits, we find that the applicant has no case. We have seen the original A.C.R. and also shown to the learned counsel for the applicant where the short comings of the applicant have been pointed out. We could not go to the correctness of the comments made by the Supervisory officers because the particular remarks of the year has not been assailed in the present O.A. What is prayed for by the applicant is anti dating his promotion with effect from the date of the recommendation of the D.P.C. held in August,

1990. When the A.C.R. remains intact and when there is an adverse opinion about the working of the applicant which has been upheld by the Reviewing and Accepting Officer earlier to the holding of the D.P.C., the D.P.C. has not faulted and considered his A.C.R. The recommendation of the D.P.C., therefore, cannot be said to in any way unfair or to be interfered with in judicial review.

The application has, therefore, no force and is dismissed, leaving the parties to bear their own costs.

  
(B.K. Singh)

Member (A)

  
(J.P. Sharma)

Member (J)

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