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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 991/1991

New Delhi this the 5th Day of May 1995

Hon'ble Mr. B.K. Singh, Member (A)

Hon'ble Mr. P. Suryaprakasam, Member (J)

Mr. Santosh Datta,
S/o Major R.S. Datta,
Rpo A-25, Income Tax Colony,
Pedder Road,
Bombay-400 026.

... Applicant

(By Advocate: Shri P.P. Khurana)

Vs.

1. Union of India,
through the Secretary,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi

2. Central Board of Direct Taxes,
through its Chairman,
North Block, New Delhi.

... Respondents

(By Advocate: None)

ORDER

Hon'ble Mr. P. Suryaprakasam, Member (J)

The applicant filed this application claiming benefit that he is entitled to be promoted to the selection grade (non-functional) in the scale of Rs. 4500-5700 with effect from 1.5.1986 viz., the date on which his immediate junior was promoted.

2. The applicant's case is that he joined the Income Tax Department as Income Tax Officer Group 'A' in November 1974. The applicant being an ex-army officer was given weightage in seniority and placed with 1970 batch of direct recruits of Indian Revenue Service (II). The applicant is presently posted as Deputy Commissioner Range 23 Bombay. The applicant was superseded by as many as 20 officers junior to him in the year 1988. Later by an order

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dated 23.1.1991 another 206 officers junior to the applicant have also been given the selection grade. The applicant's case was also considered by the DPC and they adopted the sealed cover procedure in respect of the applicant for the placement in the selection grade. According to the application this was done notwithstanding that at the relevant time when the DPC met neither any disciplinary proceedings were pending against the applicant by way of issuance of the charge-sheet nor any charge-sheet had been filed in any court of law. Only a memo dated 13.6.1990 from the office of the Chief Commissioner of Income Tax (Tech.) had been received by him alleging certain minor irregularities.

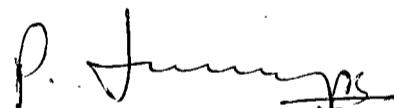
3. The applicant approached the Tribunal with the present application and also sought an interim direction to the effect that the sealed cover may be opened and the order passed by the DPC with regard to his promotion may be acted upon. The Tribunal by its order dated 26.4.1991 while admitting the D.A. passed an interim order to the effect directing the respondents to open the sealed cover and give effect to the recommendations made by the DPC in regard to the suitability of the applicant for allotment within a period of one month from the date of receipt of the said order.

4. The respondents in their counter have specifically admitted para 4(iii) which is as follows:

"As regards item No. (iii) of paragraph 4 of the application is admitted to the extent that no formal disciplinary proceedings under the CCS(CCA) Rules had been initiated against the applicant by the date of Departmental Promotion Committee met to consider the applicant's case for his placement in selection scale (non-functional)."

Further, the respondents submitted that since investigation into serious allegations of corruption, bribery and/or similar grave misconduct were under progress as on the date of meeting of the Departmental Promotion Committee, vigilance clearance of the officer was withheld under Para 2(iv) of the Department of Personnel and Training's instructions dated 12.1.1988 and as such the procedure adopted in the applicant's case was in conformity with the O.M. issued by DOPT and as such the application is liable to be dismissed.

4. We have gone through the pleadings as well as the counter reply filed by the respondents and on consideration of the admitted facts that the applicant has since been promoted twice and sealed cover already stood opened on account of the interim direction of the court the application is of academic interest only. Thus the application is allowed but without any order as to costs.


(P. Suryaprakasam)
Member(J)


(B.K. Singh)
Member(A)

Mittal