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**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**OA 2499/2004**

New Delhi, this the 25<sup>th</sup> day of October, 2005

**HON'BLE MR. V.K. MAJOTRA, VICE-CHAIRMAN (A)  
HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)**

Kanwal Naiter  
Son of Shri Chaman Lal  
R/o DG 957, Sarojini Nagar,  
New Delhi – 23.

Office - Directorate of Public Relation  
Ministry of Defence  
L-II Block, New Delhi.

...Applicant.

(By Advocate Shri Praveen Chaturvedi)

**VERSUS**

1. Union of India  
Through Secretary,  
Ministry of Defence,  
South Block, New Delhi
2. Director (G)  
Ministry of Defence,  
South Block, New Delhi
3. Chief Administrative Officer,  
E-Block, Ministry of Defence,  
Opp. Sena Bhavan, New Delhi.
4. Smt. Anu Saharya  
SAO, Office of CAO,  
E-Block, Ministry of Defence,  
Opp. Sena Bhavan, New Delhi.

... Respondents.

(By Advocate Ms. Sangeeta Tomar)

**O R D E R (ORAL)**

The reliefs prayed for, in this OA, are as follows:

- (i) Letter No.A/73311/Photo/CAO/P-2 dated 4.3.2003 be quashed and declared null and void.
  - (ii) The respondents may be directed to hold review DPC and consider the applicant for the promotion to the post of Photographic Officer w.e.f. 10.11.2001 when the post became vacant in the AFFPD.
  - (iii) The applicant be given notional promotion and financial upgradation from the pay scale of Rs.4500-700 to Rs.5000 to 8000 with effect from 1.1.1996 and Rs.5500 – 9000 in the grade of Senior Photographer, Grade-I with effect from
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4.3.2003 as per 5<sup>th</sup> Pay Commission recommendations and respondents order dated 22.5.2002 and promotion to the post of Photo Supervisor, re-designated as Sr. Photographer Gr. I, Rs.5500-9000, since 4.3.2003 when the vacancy arose due to promotion of Shri S C Kapoor;

- (iv) The merger of Photo Artist and Sr. Photographer cadre be quashed and should be declared as null and void; and
- (v) Any other order or direction as may be deemed just, proper and fit in the facts and circumstances, in the interest of justice."

2. It was pointed out to the learned counsel for the applicant that the reliefs prayed for are multiple, not based upon a single cause of action and, therefore, the same is prohibited under Rule 10 of CAT (Procedure) Rules, 1987. Under these circumstances, the learned counsel for applicant was heard only in respect of reliefs No. 1 and 2, which are consequential to one another, and, therefore, the learned counsel for the applicant sought permission to seek adjudication of the remaining reliefs by instituting separate proceedings in terms of rules and law. Liberty granted.

3. The facts as stated are that the applicant initially joined as Assistant Photographer on 24.11.1977 and confirmed in the said post on 25.11.1979. Later he was promoted as Photographer on 4.8.1984 and Photo Artist on 10.05.1989 as per the Recruitment Rules known as Ministry of Defence, Armed Forces Film & Photo Division (Photographic Officers) Recruitment Rules, and 1986, which came into operation w.e.f. 30.05.1986. As per Annexure appended to the said Rules, for the post of Photographic Officer, which is a Group-B Gazetted Post, persons with 8 years of regular service in the grades of Photo Supervisor and Photo Artist were made eligible as a feeder cadre.

4. Shri S.C. Kapoor joined as Photo Supervisor on 30.07.1992 in the pay scale of Rs.1400-2600/-. There had been a restructuring of posts in

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terms of order dated 22.05.2002 and the position after restructuring and re-designation of various posts is as under:

Sl. No.	Existing Designations and Pay Scales in Rs.		Sl. No.	Revised Designations and 5 <sup>th</sup> Pay Scales in Rs.	
1.	Photographic Officer (4)	2000-3500(PR) 6500-10500(R)	1	Chief Photographer (4)	2000-3500(PR) 6500-10500(R)
			2.	Senior Photographer Grade-I(I)	1640-2900(PR) 5500-9000(R)
2.	Photo Supervisor (I)	1400-2600(PR) 5000-8000(R)	3.	Senior Photographer Grade-II(2)	1400-2600(PR) 5000-8000 (R)
3.	Photo Artist (2)	1400-2300(PR) 4500-7000(R)	4.	Photographer Grade-I(6)	1400-2300(PR) 4500-7000(R)
4.	Senior Photographer (3)	1350-2200(PR) 4500-7000®			
5.	Photographer(16)	1200-2040(PR) 4000-6000(R)	5.	Photographer Grade-II(13)	1200-2040(PR) 4000-6000(R)
6.	Dark Room Asstt(4)	950-1500(PR) 3050-4590(R)	6	Photo Attendant Grade-I(6)	950-1500(PR) 3050-4590(R)
7.	Dark Room Asstt. Jr. Grade (2)	950-1400(PR) 3050-4590(R)			
8.	Glazer/Trimmer(3)	775-1150(PR) 2650-4000(R)	7.	Photo Attendant Grade-II(3)	800-1150(PR) 2650-4000(R)

\*PR – Pre-revised and R – Revised

5. The Grievance of the applicant is that though he had performed his duties with full zeal, enthusiasm and devotion, but he has not been considered and promoted to the post of Chief Photographer, which was earlier known as Photographic Officer. Photo Supervisor as well as Photo Artist both were feeder grades to the post of Photographic Officer and the applicant had completed more than 8 years of service required in the said grade.

6. On 04.03.2003, Shri S.C. Kapoor, Sr. Photographer Gr.II was promoted to the post of Photographic Officer in the pay scale of Rs.6,500-10,500/- by the DPC without considering the applicant in terms of the Rules noticed hereinabove. Therefore, he submitted a representation dated 28.10.2003 which was followed by further representations dated

30.01.2004/03.02.2004, 19.04.2004, 07.06.2004 and 13.07.2004. The ACRs of Shri Kapoor were much below for selection as Photographic Officer in comparison to the applicant and as such there was no comparison between Shri S.C. Kapoor and the applicant in respect of service records, ACRs, cordiality, punctuality, suitability, execution of planning and foresightedness etc. Shri S.C. Kapoor was promoted against a vacancy that arose on dismissal of one Photographic Officer (Shri T.L. Verma) who has now been reinstated in service in terms of this Tribunal's order dated 22.07.2004 and, therefore, there was no vacant post against which Shri S.C. Kapoor is continued. Vide communication dated 30.07.2004, the applicant's representations had been rejected by passing a non-speaking and bald order.

7. Shri Praveen Chaturvedi, learned counsel appearing for the applicant contended that the respondents' action in not considering the applicant for promotion to the post of Photographic Officer, now re-designated as Chief Photographer, is illegal, arbitrary and violative of rules; that the Recruitment Rules have been misinterpreted for giving promotion to a less experienced person and that the DPC failed to consider the applicant even though as per the Recruitment Rules he was in the feeder cadre and fulfilled the desired essential qualification and experience; that as per the law laid down by the Hon'ble Supreme Court in *Delhi Jal Board vs. Mohinder Singh (2000) 7 SCC 210* he had a right to be considered by the DPC as he was not only eligible but was also in the zone of consideration. Reliance was also placed on Hon'ble Supreme Court's decision in the case of *Shyam Charan Dash vs. State of Orissa (2003) 4 SCC 218*, which provides that if there are two scales in feeder cadre, then both have to be considered by the DPC for promotion. In any case, it was contended that the appointment of Shri S.C. Kapoor was not approved by

the competent authority and, therefore, the same was against the law: We may note that the applicant's prayers regarding grant of financial upgradation etc. as sought for have not been considered herein in terms of the prohibition under Rule 10 of the rules, as noticed hereinabove and, therefore, we have not taken note of facts on the said aspect.

8. The respondents contested the applicant's claim and stated that as per amended Recruitment Rules being SRO 284 dated 12.9.1989, Photo Supervisor and Photo Artist with 8 years regular service in the respective grades are eligible for promotion to the grade of Photographic Officer. The said rules are applicable only for direct recruit and not to promotees. Shri S.C. Kapoor was senior to the applicant. S/Shri S.C. Kapoor, Kanwal Naiter (applicant) and P.C. Dogra were considered by the DPC for making promotion to the single vacancy in the grade of Photographic Officer. The DPC recommended the name of Shri S.C. Kapoor only on the basis of seniority and service records of the individual. The applicant's representation was considered and the same was rejected vide communication dated 30.07.2004. There was no misrepresentation of the Recruitment Rules and the DPC acted in an unbiased and transparent manner and recommended a senior candidate, i.e. Shri S.C. Kapoor for promotion. In terms of the revised recruitment Rules, being SRO 28 dated 25.02.2004, the applicant was accorded regular promotion in the grade of Senior Photographer Grade-II vide Office Order dated 17.06.2004. Shri T.L. Verma was dismissed from service w.e.f. 09.11.2001 and the said vacancy was filled up by promoting Shri S.C. Kapoor in March, 2003 as there was no embargo in filling up the said vacancy. On reinstatement of Shri T.L. Verma in service w.e.f. 22.07.2004 as per this Tribunal's order dated 22.7.2004 in OA No.476/2003, Shri S.C. Kapoor has been reverted to the post of Senior Photographer Grade-I vide order dated 22.12.2004.

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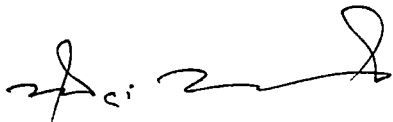
9. We have heard the learned counsel for the parties and perused the pleadings on record carefully.

10. We may note that the basic contention of the applicant is that he had not been considered for promotion to the post of Photographic Officer, now redesignated as Chief Photographer, along with Shri S.C. Kapoor. Ms. Sangeeta Tomar, learned counsel appearing for the respondents drew our attention to the applicant's own representation dated 30.1.2004/3.2.2004 wherein in paragraph 10, he had specifically stated that: "I the then Photo Artist (presently as Sr. Photographer Gd II) and Sh. S.C. Kapoor, the then Photo Supervisor (Presently Chief Photographer) were both eligible and duly considered". It was further contended that the applicant had himself admitted that he had been considered for promotion by the DPC for promotion to the said post. In any case, it was contended that the applicant had been considered along with Shri S.C. Kapoor and one Shri P.C. Dogra. Our attention was also drawn to the seniority list appended by the applicant at page No.37 of the paper book which indeed goes to show that the applicant was only a Photo Artist, while Shri S.C. Kapoor was appointed as Photo Supervisor and the said seniority list was issued as on 01.05.2000. In other words, it was contended that the applicant was not a Photo Supervisor and hence was not comparable with Shri S.C. Kapoor. In any case, Shri Kapoor was senior to the applicant. The post in question being a selection post, was filled up based on DPC's recommendations and the applicant has not controverted/disputed the contention raised by the respondents in reply para 4.10 wherein it was specifically stated that Shri S.C. Kapoor, the applicant and P.C. Dogra were considered by the DPC and the DPC recommended the name of Shri S.C. Kapoor only. Our attention was also drawn to the rejoinder wherein no such specific denial had been made by the applicant, as pleaded by the respondents.

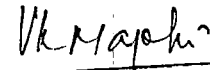
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11. On bestowing our careful consideration to the entire matter, as noticed hereinabove, we are satisfied that the applicant had indeed been considered for promotion to the post of Photographic Officer, now re-designated as Chief Photographer, by the DPC constituted for the said purpose and there was no illegality and arbitrariness in the said action of the respondents. In any case, Shri S.C. Kapoor has now been reverted to the post of Senior Photographer Grade-I vide order dated 22.12.2004.

12. view of the discussion made hereinabove, we do not find any justification or merit in the applicant's claim and accordingly the OA is dismissed. No costs.



**(Mukesh Kumar Gupta)**  
**Member (J)**



**(V.K. Majotra)**  
**Vice-Chairman(A)**

25.10.05

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