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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.1818/2004

New Delhi, this the 18th day of March, 2005

**Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A.Singh, Member (A)**

Anoop Kumar Saxena
Personal Assistant
Embassy of India
Stockholm (Sweden)
C/o Ministry of External Affairs
New Delhi – 110 011. ... Applicant

(By Advocate: Dr. D.C.Vohra)

Versus

1. Union of India
Through the Foreign Secretary
Govt. of India
Ministry of External Affairs
South Block
New Delhi – 110 011.
2. First Secretary (Admn)
Embassy of India
Stockholm (Sweden)
C/o Ministry of External Affairs
South Block
New Delhi – 110 011. .. Respondents

(By Advocate: Sh. N.S.Mehta)

O R D E R (Oral)

By Mr. Justice V.S.Aggarwal:

Applicant, by virtue of the present application, seeks a declaration that Office Memorandum of 3.2.2004 is erroneous. By virtue of it, it gives benefit of Assured Career Progression to persons junior to the applicant even when they had not completed 12 years of regular service in the

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Grade-II of Stenographers Cadre of IFS (B) but the benefit has been denied to the applicant who has completed 12 years. He seeks that he should be granted the benefit of financial upgradation with effect from 6.11.2003.

2. In this regard, the applicant had submitted a representation, which has been rejected with the following order:

“With reference to his representation dated 18.02.2004 requesting to know the reasons on the basis of which he was not granted financial benefits under the Assured Career Progression Scheme, Shri Anoop Kumar Saxena, PA, is hereby informed that the Departmental Screening Committee has duly considered his name for grant of financial benefits, however, the Committee did not recommend his name due to non-fulfillment of benchmark set by DOP&T and the Ministry.”

3. Learned counsel for the applicant raised certain pleas but it is unnecessary to refer to the same because one of the arguments advanced was that the claim of the applicant has been rejected on the ground that it was considered by the Committee which was rejected because the applicant did not fulfil the benchmark.

4. The learned counsel for the applicant relied upon the Office Memorandum of 8.2.2002 pertaining to procedure to be observed by Departmental Promotion Committee and that there should be no supersession in selection/promotion.



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5. At this stage, it deserves a mention that during the course of submissions our attention was not drawn to any order or instructions that there is a fixed benchmark for such a promotion in the hierarchy. In terms of the ACP Scheme, the applicant necessarily has to meet the benchmark but when there is no such benchmark, instructions of 8.2.2002 would come into play. These instructions clearly stipulate that unless the recruitment rules provided otherwise, the persons should not be superseded in selection/promotion. They have to be considered for promotion as 'fit' or 'unfit'. It appears that inadvertently, in the impugned order, the matter has been considered as there is a benchmark.

6. Resultantly, on this short ground, we quash the impugned order and direct that matter may be reconsidered by the Departmental Screening Committee in the light of the findings given above and the instructions of the Government of India on the subject. This exercise preferably may be done within four months from the date of receipt of the certified copy of this order.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

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