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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO.538/2004

New Delhi this the 17th January, 2005

HON'BLE SHRI JUSTICE V.S.AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A.SINGH, MEMBER(A)

S.Sugunam S/o Late R.K.Srinivasan
Deputy Director of Naval Armaments,
Naval Headquarters, DGAS/West Block No.V
R.K.Puram, New Delhi.

...Applicant.

(By Advocate: Shri S.N.Anand)

Versus

1. Union of India
through Secretary,
Ministry of Defence, South Block,
New Delhi-110066.
2. The Chief of Naval Staff
Naval Headquarters South Block
New Delhi.
3. The Joint Director/CP(G)
Directorate of Civillan Personnel,
(Ministry of Defence)
'D' Wing, Room No.101
Sena Bhawan, New Delhi.

...Respondents.

(By Advocate: Ms.Hemangini Jain for Shri D.S.Mahendru)

ORDER (ORAL)

By Shri Justice V.S.Aggarwal, Chairman:

The applicant Sugunam by virtue of the present application seeks to set aside of the order dated 28.1.2004 and ante date the promotion of the applicant from 25.1.2002 as per Annexure-B to 15.1.2000.

2. Some of the relevant facts are that applicant, who joined as Senior Chargeman in the year 1974, earned his due promotion and was further promoted as Assistant Armament Supply Officer in July 1992. He was further promoted as Deputy Armament Supply Officer Grade-II w.e.f. 15.1.1996. As per recruitment Rules, an officer in the grade of Deputy Armament Supply Officer Grade-II with four years regular service and has passed the departmental examination is eligible for promotion. The applicant contends that he has completed the requisite qualifying service as on 15.1.2000. However, in terms of Department of Personnel and Training's OM dated 8.9.1998, the crucial date of determining the

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-2-

(11)

eligibility of promotion is the 1st January of the vacancy year. The DPC

was held on 26.1.2001. The candidature of the applicant along with two more eligible candidates was considered.

3. The other two officers, namely, Jagdish Prasad and Manoj Kumar, who are senior to the applicant, were promoted on 25.1.2002. The name of the applicant was kept in a sealed cover. The applicant was subsequently exonerated on 7.1.2003.

4. It is not in dispute that another charge-sheet has subsequently been served.

5. The applicant had filed OA 665/2003 which was disposed of by this Tribunal on 26.3.2003 with the following direction:

“Respondents shall take further necessary action in accordance with law, rules and instructions taking into account their own order dated 7.1.2003, exonerating the applicant from the charges levelled against him. He shall be entitled to the consequential benefits in accordance with law. This shall be done as expeditiously as possible and in any case within one month from the date of receipt of a copy of this order, with intimation to the applicant.”

6. Some of other relevant facts can also be delineated. After direction of this Tribunal, the applicant has been promoted on 25.1.2002.

7. Learned counsel for applicant contended that he should have been promoted from the date he became eligible or in any case when the DPC was held. During the course of submission, it was not in dispute that Jagdish Prasad and Manoj Kumar were senior to the applicant. They were considered with the applicant and promoted on 25.1.2002.

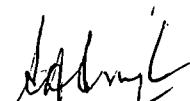
8. Once the seniors have been promoted from 25.1.2002, indeed, the applicant cannot score ^{a march} ~~marks~~ over them and he could only be promoted along with his seniors and not from prior to that date. Merely because the DPC was held two months earlier will not confer any right on the applicant and the promotion would be from the date the proceedings are approved and orders are issued. Taking stock of the totality of the facts, once seniors were only promoted on 25.1.2002, we find that in the facts


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18

-3-

and circumstances of the present case, the application has no merit. With this, OA fails and is dismissed.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

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