

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.636/2004

This the 8th day of February, 2005.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

K.K.Gaur,
Senior Auditor (Retired), Group 'C',
108/D, Sector-4, Swapna Neer,
Jagriti Vihar, Meerut City,
Meerut.

... Applicant

(By Shri E.J.Vergheese, Advocate)

versus

1. Union of India through
Secretary, Ministry of Defence, [Finance],
New Delhi-110011.
2. The CGDA,
West Block-V, R.K.Puram,
New Delhi-110066.
3. The JCDA (Funds),
Meerut.

... Respondents

(By Ms. Avinash Kaur, Advocate)

ORDER

Hon'ble Shri V.K.Majotra, Vice-Chairman (A) :

Applicant superannuated from the office of respondent No.3 in the grade of Senior Auditor on 31.10.2003. He is aggrieved that he was eligible for promotion to the grade of Supervisor (Accounts) and had been declared successful in the departmental examination with 78% marks which was conducted on 29.4.2002 for purpose of considering promotion to the grade of Supervisor (Accounts). However, he was not accorded promotion prior to his superannuation on 31.10.2003. It is alleged that while his claim for promotion was ignored, one Asha Rani Gupta who is junior to applicant was promoted in utter disregard to his seniority. He further added that there were four hundred vacancies in the post of

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Section Officer in 2003. Respondents could have promoted applicant against one of them as they did in the case of his junior Asha Rani Gupta.

2. The learned counsel of applicant further contended that respondents have considered applicant's junior Smt. Asha Rani Gupta senior to applicant on the ground that she had passed the SAS Part-I examination in 1981. He submitted that the passing of an examination in the earlier year would not make her senior to applicant as "seniority in service is not decided by passing the exams".

3. The learned counsel of respondents, on the other hand, stated as follows:

- (i) As per Recruitment Rules of Supervisor (A/Cs) Sr. Auditors with five years regular service in the grade or Sr. Auditors with combined 15 years service in the grade and in the grade of Auditors and have either passed SAS Pt.I Examination or passed the Supervisory Examination are eligible for promotion to the grade of Supervisor A/Cs.
- (ii) SAS Pt.I passed Sr. Auditor who have completed 24 years of regular service prior to 29.4.2002 (i.e. the date on which supervisor A/Cs Exam was held) have already been considered and granted the 2nd financial upgradation under ACP Scheme as they are also eligible for promotion to the grade of Supervisor (A/Cs). Therefore, SAS Pt.I passed Sr. Auditors who have already passed the SAS Pt.I Examination prior to Supervisor (A/Cs) Examination held on 29.4.2002 have been considered senior to those who have passed the Supervisor (A/Cs) Examination held on 29.4.2002.
- (iii) At present the strength of Section Officers (A/Cs) in the department is 796 and only 15% of Section Officers (A)

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posts (i.e. 119) posts have been identified for promotion in the grade of Supervisor (A/Cs). Further promotions are released according to the seniority position in the panel and subject to availability of vacancies in that grade.

4. The learned counsel further produced the combined seniority list of Senior Auditors and Auditors eligible for promotion to the grade of Supervisor (Accounts).

5. We have considered the rival contentions of parties as also gone through the material produced before us.

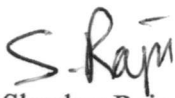
6. It is not disputed that as per recruitment rules of supervisors (Accounts), Senior Auditors with five years regular service in the grade or Senior Auditors with combined fifteen years service in the grade and in the grade of Auditors and have either passed SAS Part-I examination or the supervisory examination are eligible for promotion to the grade of Supervisor (Accounts). No proof has been furnished on behalf of applicant to establish the contention that four hundred vacancies of Section Officers existed in 2003. As such, the contention of respondents that on the basis of the strength of Section Officers (Accounts) being 796, only 15% posts, i.e., 119, could be identified for promotion in the grade of Supervisor (Accounts). No fault can be found with the contention of respondents that promotions are released in accordance with seniority position in the panel and subject to availability of vacancies in that grade. From the combined seniority list and the panel, it is clear that while Smt. Asha Rani Gupta has been shown at Sl. No.92, applicant's name figures at Sl. No.978. On the basis of Smt. Asha Rani having passed the SAS Part-I examination in 1981, she was considered as senior to applicant and accorded promotion to the grade of Supervisor (Accounts) in April, 2004. Applicant has not been able to establish his seniority over Smt. Asha Rani nor has he challenged the promotion of Smt. Asha Rani to the grade of Supervisor (Accounts), which was ordered after the



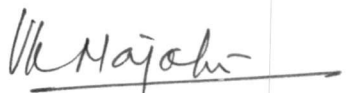
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retirement of applicant. From the facts of the case it is clear that applicant's turn for promotion to the post of supervisor (Accounts) could not come about prior to the date of his superannuation. Applicant has failed to establish his seniority vis-à-vis Smt. Asha Rani Gupta and also how could he be adjusted out of turn now against the vacancies, which occurred prior to the date of his superannuation.

7. As a result, in our view, applicant has failed to establish his claim before us. This OA is dismissed accordingly.


(Shanker Raju)
Member (J)

/as/


(V. K. Majotra) 8.2.05
Vice-Chairman (A)