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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.816/2004

New Delhi this the 24th day of December, 2004.

HON'BLE MR. SHANKER RAJU, MEMBER (J)
HON'BLE MR. S.A. SINGH, MEMBER (A)

Shri B.D. Jain,
S/o Shri late Sh. K.C. Jain,
R/o 25-A/36, Gali No.15,
Vishwas Nagar,
Shahdara,
Delhi-110032.

-Applicant

(By Advocate – None)

-Versus-

1. Govt. of NCT of Delhi through
its Chief Secretary,
Delhi Secretariat,
I.P. Estate,
New Delhi-110 002.
2. Principal Secretary Finance,
Govt. of NCT of Delhi,
A Wing, 4th Level,
Delhi Secretariat,
I.P. Estate,
New Delhi-110 002.

-Respondents

(By Advocate Ms. Kanika Vadhera, proxy for Mrs. Avnish Ahlawat,
Advocate)

O R D E R (ORAL)

Mr. Shanker Raju, Hon'ble Member (J):

Applicant, through this OA seeks promotion from 7.5.2003, the date when his juniors have been promoted, with all consequential benefits.

2. None appeared for applicant, even on the second call. OA stands disposed of in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

3. Applicant was working as an Accounts Officer. In the seniority list circulated on 25.4.2001 his name was shown at serial No.178. Juniors to applicant S/Shri R.K. Gupta, R.P. Dimiri and P.D. Goyal were promoted

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w.e.f. 7.5.2003. On supersession, applicant preferred a representation which was not responded to. However, applicant who was on deputation on being repatriated and joining the post was promoted vide order dated 30.7.2003. The representation preferred was rejected on 11.12.2003, giving rise to the present OA.

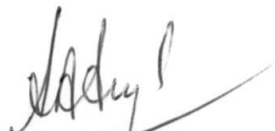
4. Applicant in his OA has contended that whereas he was senior to other three officers who have been promoted w.e.f. 7.5.2003, his non-promotion from that date is not in accordance with rules.

5. On the other hand, learned proxy counsel appearing for respondents vehemently opposed the contentions and stated that name of applicant was not considered for promotion w.e.f. 7.5.2003 as the DPC has observed that the ACRs for the years 1998-1999 and 2000-2001 were 'average' and due to non-availability of ACR for the period 2000-2001, accordingly his case was recommended for promotion as Senior Accounts Officer in the next DPC and was deferred. Applicant, who was on deputation, his remaining ACRs were obtained and DPC met on 14.7.2003 recommended applicant for promotion. This promotion was given from the actual joining because at the time of his promotion applicant was on deputation to Urdu Academy and as per paragraph-8 of the Finance Department letter dated 15.2.1994 Accounts Officers who are on deputation and drawing pay in the existing scale of Accounts Officer are to be repatriated to the parent department to be promoted from the date of their joining duty in the parent department.

6. In so far as others are concerned, though one H.L. Nagpal was senior to applicant but his promotion became due on account of deputation was to be effected from a prospective date, i.e., from the date of joining duty.

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7. On careful consideration of the pleadings in the OA and the arguments tendered on behalf of respondents in the light of OM dated 15.2.1994 and as a trite law as well, a deputationist has to be promoted prospectively from the date of repatriation to the parent department. The promotion cannot be antedated in any event. We do not find any legal infirmity in the orders passed by the respondents, whereby applicant has been promoted from 30.7.2003, which cannot be antedated to 7.5.2003. The OA is found bereft of merit and is accordingly dismissed. No costs.


(S.A. SINGH)
Member(A)


(SHANKER RAJU)
Member (J)

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