

CENTRAL ADMINISTRATIVE TRIBUNAL

Principal Bench

O.A. No. 2372 of 1992

New Delhi, dated this the

7th JANUARY 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Naresh Kumar,
C/o G.K. Aggarwal,
Advocate,
G-82, Ashok Vihar-I,
Delhi-110052.

... APPLICANT

(By Advocate: Shri G.K. Aggarwal)

VERSUS

1. Union of India through
the Secretary,
Dept. of Defence Research & Development,
and Scientific Adviser to Defence
Minister and Director General,
Defence Research & Development,
South Block,
New Delhi.
2. The Director,
DESIDOC (also Chairman, DPC-II, ex-officio),
Metcalf House,
Delhi-110054.
3. The Scientific Adviser to
Chief of Air Staff, Vayu Bhawan,
New Delhi.
4. Mr. Mahesh Kumar,
Draftsman Gd.II,
Office of the Scientific Adviser to
Chief of Air Staff,
Vayu Bhawan,
New Delhi.

... RESPONDENTS

J U D G M E N T

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant prays for quashing of DPC proceedings dated 15.9.92 for promotion from 'Draftsman Grade II to Draftsman Gr.I in Defence Scientific Information and Documentation Centre (DEISDOC) group under Scientific Adviser to Chief of Air Staff (CAS) and for a review DPC to consider him along with or preference to Respondent No.4,

and if he makes the grade to promote him w.e.f. 15.9.92 with consequential benefits.

2. During the course of hearing we had directed Respondents' counsel to keep the relevant DPC records of 1981-82 as well as seniority list being maintained by Respondents in respect of applicant[^] as well as R-4 available for our perusal, and the matter had been adjourned to another date. However, on that date Respondents' counsel sought further adjournment to produce those records, which prayer^{^ was} opposed by applicant's counsel, who urged that adverse notice should be taken upon Respondents' failure to produce the aforesaid records. Accordingly we heard both sides on the basis of available materials on record.

3. Admittedly Office of SA to CAS wrote to Director, DESIDOC on 24.5.90 (Annexure R-1) informing[^] that the post of D'man Gr.II in that office was vacant, and requesting that a suitable incumbent be posted against that vacancy after the DPC-III meeting scheduled to be held on 15.6.90. Pursuant to that letter, applicant who was D'man Gr.III in DESIDOC was promoted as D'man Gr.II and joined the office of SA to CAS on 25.9.90 (Annexure A-4). Meanwhile R-4 who was employed as D'man Gr.III in SA to CNS (Chief of Naval Staff) was promoted as D'man Gr.II in that office w.e.f. 28.11.91 (Annexure R-2).

3. From Para 4.04 of applicant's O.A., quoting relevant extracts of Respondents' letters dated 10.6.92 and 28.8.92, it is clear that DESIDOC was the establishment responsible for DPC-II, and posts in offices of both SA to CNS as well as to SA to CAS were grouped with DESIDOC for holding DPC for making promotion from D'man Gr.II to D'man Grade I. Admittedly this promotion is on seniority-cum-fitness basis, and not through selection. Accordingly if DESIDOC in its DPC meeting held on 15.9.92 recommended R-4 for promotion as D'man Grade I in office of SA to CAS; he having put in many more service as D'man Gr.II than the applicant, no legal infirmity is detectable. It is not applicant's case that only those persons were entitled to be promoted as D'man Grade I in Office of SA to CAS who were working as D'man Grade II in that Office alone, because there is no such averment to that effect. In fact applicant himself while working in DESIDOC as D'man Grade III was promoted to D'man Grade II in Office of SA to CAS, and in fact applicant all along has emphasised that the DESIDOC Group (which would include the posts added by letter dated 28.8.92 cited by applicant himself) has to be treated as a whole. This is precisely what respondents have done in

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the DPC held on 15.9.92 and finding that R-4 had put in many more service as D'man Grade II than the applicant, they promoted him as D'man Grade I.

4. Applicant has contended that R-4 was never promoted from D'man Gr.III to D'man Gr.II in accordance with rules; he was promoted de hors the rules and by an authority not competent to promote him. It is clear that in respondents' letter dated 3.3.81 (Annexure R-3(a) to reply) neither office of SA to CAS nor Office of SA to CNS was included amongst Establishments competent to constitute DPC III. Letter dated 12.3.81 (Annexure R-3) clarified that those establishments not included in the earlier letter dated 3.3.81 may convene DPC III in accordance with Rules. Respondents have stated that this letter dated 12.3.81 gave office of SA to CNS, authority to hold DPC III independently and no materials have been furnished by applicant to rebut this contention. Even if for a moment applicant's contention is accepted that R-4 was promoted as D'man Gr.II de hors the rules and by an authority not competent to promote him, applicant has himself conceded that R-4 was working continuously as D'man Gr.II since 28.11.81 (para 4.03 of OA) while applicant himself admittedly was promoted as D'man Gr.II only on 25.9.90.

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5. Under the circumstance, if consequent to Respondents' letter dated 28.8.92 office of SA to CAS as well as Office of SA to CNS both came under DESIDOC, and DESIDOC which was the Establishment responsible for holding DPC-II concluded that for promotion from D'man Gr.II to D'man Gr.I on the basis of seniority-cum-fitness, R-4 had a superior claim to promotion in comparison with applicant in view of his greater length of continuous service as D'man Gr.II, we see no good grounds to interfere.

6. The O.A. is therefore dismissed. No costs.

A. VedaValli

(DR. A. VEDAVALLI)
Member (J)
/GK/

S.R. Adige

(S.R. ADIGE)
Vice Chairman (A)