

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No. 887/92

New Delhi this the 4<sup>th</sup> Day of February 1999

Hon'ble Shri T.N. Bhat, Member (J)  
Hon'ble Shri R.K. Ahooja, Member (A),

Man Mohan Lal Gupta,  
S/o Shri Mani Ram Gupta,  
R/o B-1661, ShastriNagar,  
Near Bharat Nagar,  
Delhi-110 052.

Employed as Audit Officer  
in the office of the Accountant General,  
J&K,  
Srinagar.

(By Advocate: Shri B.B. Raval)

Applicant

-Versus-

1. Ministry of Finance,  
Dept. of Expenditure,  
Govt. of India,  
New Delhi-110 001.

2. Comptroller and Auditor General of India,  
Bahadurshah Zafar Marg,  
New Delhi-110 002.

3. The Accountant General, J&K,  
Srinagar - 190 009.

(By Advocate: Shri S.M. Arif) Respondents

O R D E R

Hon'ble Shri R.K. Ahooja, Member (A)

The applicant joined service as SAS on probation on 19.12.1964 and was substantively appointed as SAS Superintendent on 1.4.1968. He was promoted as Accounts Officer on 22.6.1974 and was given further promotion as Audit Officer w.e.f. 1.3.1984. His grievance is in regard to his inter-se seniority in the eligibility list for promotion to the Indian Audit and Accounts Services (hereinafter referred to as IA & AS). The applicant submits that in the IA & AS Rules in force till 1983, a combined seniority list used to be prepared in which the inter-se ranking was on the basis of appointment to the rank of Accounts Officer. However, the IA & AS Rules were amended in 1983 changing the criteria of promotion to IAAS. As per the amended

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rules, a combined eligibility list is being prepared of all persons who have rendered five years service as Accounts Officer but their inter-se seniority is being fixed according to the date of their appointment as Section Officer (Superintendent) and not as Accounts Officer as was being done earlier. The applicant submits that these rules are contrary to the normal practice wherein inter-se seniority is based on the date of promotion to the feeder post which is in this case that of Accounts Officer. The applicant's grievance is that due to the change in this criteria, he has been placed junior to many Accounts Officers whose date of promotion as Accounts Officer is much later than his, thus, adversely affecting his prospects of promotion to IA & AS.

2. The O.A. is accompanied with a M.A. No. 964/92 seeking condonation of delay as the applicant

impugnes in 1992 the criteria fixed by the IA & AS (Recruitment) Rules, in 1983. The applicant states that he had made a representation to the C&AG on 16.8.1983 soonafter the promulgation of the IA & AS (Service) Rules, 1983 but the final reply to that is still awaited. He further states that the combined eligibility list of Account Officers for purpose of promotion of IA & AS has been shown to him only in November 1989 till when he was led to believe that the new criteria in the amended rules had not been imposed due to his objections. His representation filed thereafter has also not been finally disposed of but as the respondents have issued another inter-se seniority eligibility list in December, 1991 ignoring the

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applicant's claim and representation, he is compelled to take it as a rejection of his representation. In these circumstances he has sought condonation of delay, if any.

3. We have heard counsel on limitation as well as on merits of the case. We are unable to accept the arguments of the learned counsel for the applicant, Shri Raval, that the delay occurred as the applicant was under the belief that due to his representation as of many others similarly placed, the respondents had decided not to enforce the 1983 rules and it was only in 1989 that on perusing the inter-se seniority for the first time that he found that the respondents had not fixed his seniority correctly. The applicant himself says that he had made a representation in 1983 against the amended rules. He was, thus, fully aware of the new criteria which had been adopted. There was no legitimate ground to except that the statutory rules would not be enforced. Thus, even without any reference to the new seniority list, he should have been fully aware that his seniority will be fixed on the basis of his date of appointment as Superintendent and not as an Accounts Officer. Even if it is assumed that the applicant came to know of the new seniority list only in 1989, he yet waited nearly three more years before approaching the Tribunal for which there is no explanation except that he had filed a representation which has not been finally disposed of. Section 21(2) of the A.T. Act is quite specific that in case a representation is not disposed of by the higher authority within six months, the applicant ~~can~~ <sup>has to</sup> come before the Tribunal. In these

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circumstances having found no valid explanation for the delay, we consider that the application is liable to be dismissed on the short ground of limitation alone.

4. On merits also we find little to commend the case of the applicant. The applicant states that the normal practice is to fix inter-se seniority for consideration for promotion on the basis of appointment to the feeder post. The respondents in their reply have stated that there are a number of separate offices under the control of C&AG. These offices maintain their own unit wise seniority list in respect of SAS staff. The prospects of promotion to the post of Accounts Officer vary from office to office. In these circumstances, it was considered that some officers posted in offices where there is a rapid chances of promotion as Accounts Officer get an undue advantage over other officials in whose case due to non availability of vacancies, the prospects of such upward movements are slow. After considering various pros and cons, the respondents say that it was decided that a reference to the post of SO (Superintendent), would give a fairer indication regarding the period of service rendered by the eligible officials. The learned counsel for the applicant, on the other hand, argued that it is a matter for the new entrant to decide as to which particular office he would opt for. Such decisions are made after ascertaining the future prospects and once such a decision is taken then the optee has to get the advantages as well as disadvantage of his choice. It could also be that those who do well in the SAS examination can go to offices where the prospect of faster promotion exist. While we

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agree that the normal practice is to consider inter-se seniority on the basis of date of entry to the feeder post, nevertheless, as a combined seniority list is to be prepared of officials working in separate offices with separate seniority lists and different prospects of reaching the feeder post, it is a question of policy as to which should be adopted in order to render equitable treatment to everyone. This being so, in our view, it is not for the Tribunal to substitute its judgement in place of that of the competent authority.

5. In the light of the above discussion, we dismiss this O.A. both on grounds of limitation as well on merits. There is no order as to costs.

Replies -  
(R.K. Alooja)  
Member (A)

Answer  
(T.N. Bhat)  
Member (J)

\*Mittal\*