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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.1444 of 1993
1st day of December, 1993

Hon'ble Mr. J.P. Sharma, Member (J)
Hon'ble Mr. B.K. Singh, Member (A)

K.L. Pruthi,
G-2/11, Netaji Nagar,
New Delhi.

Applicant

By Advocate: Shri S.S. Bhalla

VERSUS

1. Union of India, through
Controller General of Accounts,
Minsitry of Finance,
Department of Expenditure,
Lok Nayak Bhavan, Nelhi.

2. Controller of Accounts,
Ministry of Labour,
Shram Shakti Bhavan,
Rafi Marg, New Delhi.

Respondents

By Advocate: Shri Jog Singh

O R D E R (ORAL)

(By Mr. J.P. Sharma, Member (J))

The grievance of the applicant is that the DPC has recommended on 31st March 1993 his promotion to the post of Senior Accounts Officer (Group 'B') from Pay & Accounts Officer and his name appears at Sl. No.152 and the date of his notional promotion is 1.11.87. The persons whose names appear after Sl. No.152 have been issued specific orders of promotion while in case of the applicant the orders has not been issued on the ground that a charge-sheet has been issued to the applicant on 6.8.93. The applicant has therefore prayed for a direction to the respondents to promote him to the post of Senior Accounts Officer from the date his immediate junior was promoted to the post.

2. A notice was issued to the respondents who contested this application and opposed the grant of reliefs on the ground that the applicant has earlier filed O.A. No.1973/93

for quashing of charge-sheet dated 6.8.93. A copy of the judgment has been annexed with the reply at page 64 of the paper book. In that judgment this matter was also considered. One of the reliefs claimed in that O.A. was that that the applicant be promoted as Sr. Accounts Officer w.e.f. 1.11.87 as recommended by the DPC on 31.3.93 and due seniority be assigned to him. The respondents have also taken a stand that the applicant was already informed in May 1990 about the impending proposed charge-sheet on the misconduct alleged against him.

3. We have heard the learned counsel for the parties at length and perused the record of the case. The learned counsel for the applicant argued that the applicant is entitled to grant of promotion in view of the authority of the case of Union of India Vs. K.V. Janakiraman (ATJ 1991-92 Vol.12 page 371). The contention of the learned counsel was that this case still holds good and the applicant should be given promotion to the post of Sr. Accounts Officer w.e.f. the date his immediate junior has been promoted on the basis of recommendations of the DPC.

4. The respondents' counsel has rebutted this contention of the learned counsel for the applicant on the ground that the matter was also considered earlier and this contention did not find favour on the earlier occasion also as is evident from the judgment in O.A. No.1973/93 decided on 21.9.93. In the operative portion of the judgment the matter has been considered and it has been held that merely because the applicant was recommended for promotion by the DPC does not mean that he can in fact be promoted when his conduct is under cloud. The learned counsel for the respondents has rightly

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pointed out that if the applicant is aggrieved by the findings given in the earlier application, he should have assailed the same by filing an SLP before the Hon'ble Supreme Court or filed a review application. Filing another application is barred by the recognised principles of res judicata which analogically also applies to the proceedings before this Tribunal.

5. We have considered the contention on the touch stone of the principles of natural justice. We have also gone through the authority of K.V. Janakiraman Vs. Union of India where a number of appeals filed by Union of India were decided by the aforesaid judgment. In one of the appeals considered by their Lordships, there was an analogous question involved where the DPC had already considered the case of the petitioner and charge-sheet was issued subsequently. The Tribunal on the principles laid down in the case of K. Venkata Reddy & Ors. Vs. Union of India & Ors. decided by Principal Bench in 1987 (3 ATC 3174) observed that since the charge-sheet was not served earlier to the recommendations of the DPC, so the promotion be granted. The Hon'ble Supreme Court observed that the Tribunal has mechanically applied the authority without going into the facts of the particular case. In this case also we cannot consider this matter again as we have already disposed of the grievance of the applicant by disallowing the reliefs in the judgment on O.A. No.1973/93 delivered on 21.9.93.


6. Thus the present application does not lie. It is also made clear that the authority cited by the learned counsel for the applicant is not applicable to the present case. A person has not to be rewarded during the pendency of the inquiry and

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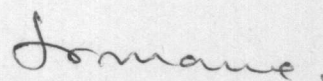
cannot be equated with those who have been promoted on the basis of the recommendations of the DPC. The applicant's case suffers from stigma which is to be cleared by exoneration as a result of the impending inquiry.

The application is devoid of any merit or substance and is therefore dismissed leaving the parties to bear their own costs.



(B.K. Singh)

Member (A)



(J.P. Sharma)

Member (J)