

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH ALLAHABAD.

Original Application No.1366 of 1998.

Allahabad this the 07th day of April, 2004.

Hon'ble Mr. Justice S.R. Singh, V.C.  
Hon'ble Mr. D.R. Tiwari, A.M.

Jagat Narain Singh  
A.O. (retired)  
Roster No.1149, S/o Late Magni Singh  
R/o 3/663, L.I.G. Scheme No.3, Avas  
Vikas Colony, Jhansi, Allahabad.

.....Applicant.

(By Advocate : Sri B.N. Chaturvedi)

Versus.

1. Union of India  
through Secretary  
Ministry of Defence,  
New Delhi.
2. The Controller General of Defence  
Accounts West Block-V, R.K. Puram,  
New Delhi-110 006.
3. The Assistant Controller General of Defence,  
Account (Administration) West Block-V,  
R.K. Puram, New Delhi-110 006.
4. The Chief Controller of Defence Accounts (Pension)  
Allahabad.

.....Respondents.

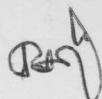
(By Advocate : Sri S.C. Mishra)

O R D E R

(By Hon'ble Mr. Justice S.R. Singh, V.C.)

Heard counsel for the parties and perused the  
pleadings.

2. The applicant was appointed as Assistant Accounts  
Officer in Controller General of Defence Accounts (Pension).  
He was promoted to the post of Accounts Officer with effect  
from 29.04.1993 in the scale of Rs.2375-75-3200-EB-100-4000  
on the basis of Government of India Ministry of Finance,  
Department of Expenditure vide office memo No.F6(B2) 10/91.



New Delhi dated 22.09.1992, a copy of which has been annexed as Annexure 1 to the O.A. The same has been rejected which is annexed as Annexure A-1 to the compilation No.1. On the premises, that the applicant had since retired and therefore, he was not eligible for promotion to Senior Administrative Accounts Officer Grade.

3. The relief claimed is that the order dated 20.07.1998 be quashed and respondents be directed to pay financial benefits of promotional grade to the applicant.

4. Sri B.N. Chaturvedi learned counsel for the applicant has submitted that the applicant retired from service on attaining superannuation on 31.07.1996, whereas he had become eligible for promotion on completion of 03 years of service on the post of Accounts Officer on 29.04.1996.

The criterion for promotion being seniority-cum-fitness, <sup>✓</sup> the case of the applicant ought to have been considered, <sup>✓</sup> but the D.P.C. which met in Sept.1992, illegally declined to consider the case of the applicant for promotion merely on the ground that on superannuation, he <sup>was</sup> ~~is~~ not entitled for the benefit.

5. Sri S.C. Mishra learned counsel representing <sup>2</sup> ~~for~~ the respondents has submitted that the post of Senior Accounts Officer in scale of Rs.2200-75-2800-EB-100-4000 have functional promotional grade <sup>2 and therefore</sup> ~~✓~~ The benefits of office memo dated 22nd Sept. 1992 could not be available to the applicant on the date the D.P.C. was held in Sept. 1996.

6. We have given our anxious consideration to the submissions made across the bar. It would be apt and proper to quote paras 3 and 5 of the office memo dated 22nd Sept. 1992 as under:-

*Prag*

"The Audit/Accounts Officers in the scale of Rs.2375-75-3200-EB-100-3500 with a minimum of three years, regular service will be eligible for promotion to the scale of Rs.2200-75-2800-EB-100-4000. The promotions will be made after following the due process of promotion by adopting the principle of seniority-cum-fitness. As the posts in the scale of Rs.2200-75-2800-EB-100-4000 are in the functional promotional grade, benefit of F.R. 22-I (a) (p) c (old FR.22-C) will be admissible on appointment to this scale.

These orders shall be effective from 1.4.1992. However, the benefit of fixation of pay on national basis in the promotional scale of Rs.2200-75-2800-EB-100-4000 may be allowed w.e.f. 1.4.87 or from the first of the month following the month in which the officer completed 3 years regular service as Audit/Accounts Officers in the scale of Rs.2375-75-3200-EB-100-3500, whichever is later, subject to the availability of posts in the promotional grade. No arrears of pay will be admissible for the period prior to 1.4.1992".

7. Having conjoint paras 3 and 5 of the office memo dated 22.09.92, aforesaid, would make it abundantly clear that promotional scale of Rs.2200-4000 may be allowed w.e.f 1.4.87 or from the first of the following month in which the officer completed 3 years regular service as Audit/Accounts Officers in the scale of Rs.2375-75-3200-EB-100-3500 whichever is later, subject to the availability of posts in the promotional grade. The eligibility for promotion as provided in para 3 of the office memo aforesaid being three years regular service of the grade of Rs.2375-75-3200-EB-100-3500, the applicant had become eligible on 29.04.1996, but as stated in the counter affidavit he was denied the promotion, by D.P.C. held in Sept. 1996, <sup>not for the reason of non availability of post but</sup> "for reasons that he had become non-effective being superannuated on 31.07.1996, though he had completed 03 years of regular service as Accounts Officer on 29.04.1996". The <sup>stand</sup> ~~instance~~ that the office memo dated 22nd Sept. 1992 become effective on 01.04.1992 and applicant was promoted to the grade of Accounts Officer w.e.f. 29.04.1993 hence the benefit of notional fixation of pay on completion of 03 years service in Accounts Officer grade was not admissible to him, cannot be accepted. Office memo dated 22.09.1992 was issued in consideration of recommendation of


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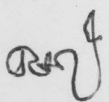


IVth Central Pay Commission that there should be broad parity in the pay structure of Accounts and Audit Staff. The re-structuring scheme was extended to the Accounts staff w.e.f. 1.4.1987, for the purpose of computation of requisite regular service of 03 years in order to grant the scale of Rs.2200-75-3800-EB-100-4000. The fact that the applicant was promoted to the post of Accounts Officer subsequent to 01.04.1992 would not be relevant. In our opinion, the applicant was denied the scale of Rs.2200-75-2800-EB-100-4000 on misconstruction of the office memo dated 22.09.1992 and on erroneous basis that he had retired in July 1996 whereas the D.P.C. meeting <sup>was</sup> held in Sept.1996. The impugned order dated 20.07.1998 is, therefore, liable to be set aside.

8. Accordingly, the O.A. succeeds and is allowed. The impugned order dated 20.07.1998 is set aside. Respondents are directed to fix notional pay of the applicant in the promotion scale of Rs.2200-75-2800-EB-100-4000 w.e.f. 1st May 1996. It is, however, made clear that since the applicant has already superannuated he will only be entitled to fixation of his pension and other retiral benefits treating him to have retired in the scale of Rs.2200-75-2800-EB-100-4000. The respondents are directed to implement the order within 04 months from the date of communication of this order.

No costs.

  
Member-A.

  
Vice-Chairman.

Manish/-