

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application No. 1084 of 2004

Di day this the 24th day of November, 2006

**Hon'ble Mr. Justice Khem Karan, Vice Chairman
Hon'ble Mr. M. Jayaraman, Member (A)**

Ajai Kumar Sonkar, Aged about 47 years, Son of Late Shri M.P. Sonkar, At present posted as Income Tax Officer, Roorkee, Uttaranchal.

Applicant

By Advocate Shri Ashish Srivastava

Versus

1. Union of India through the Secretary, Ministry of Finance, New Delhi.
2. The Chief Commissioner of Income Tax, Cadre Controlling Authority, Ayakar Bhawan, 16/69, Civil Lines, Kanpur.
3. The Chief Commissioner of Income Tax, Dehradun.

Respondents

By Advocate Shri Saumitra Singh

ORDER

M. Jayaraman, Member (A)

Heard, Shri Ashish Srivastava, learned counsel for the applicant and Shri Saumitra Singh, learned counsel for the respondents.

2. The main argument of the applicant is that on the basis of result of departmental examination, he should have been considered by the D.P.C. held in September 1995 for promotion to the post of Income Tax Officer whereas he was promoted only in July, 1998 because of late declaration of result i.e. on 22.03.1996.

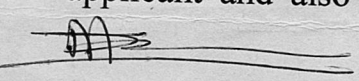
3. The brief facts of the case are that the applicant was working as Income Tax Inspector and he appeared for departmental examination held for promotion as Income Tax Officer from amongst the Income Tax Inspector having atleast 3 years service. He appeared in the examination



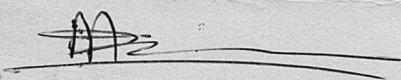
held on 03.07.1995 and he was declared successful by Order dated 22.03.1996. There was a D.P.C. held in September 1995 for promotion of successful candidates but he was not considered by this D.P.C. He made several representations, which were all rejected. Since no cogent reason was given for rejection, he filed an O.A. No.350 of 2001, which was disposed of by Order dated 12.03.2004 with a direction to the Chief Commissioner of Income Tax, Kanpur to consider the applicant's representation and dispose of the same by a reasoned and speaking order within a period of 2 months from the date of receipt of that Order. Accordingly, the Chief Commissioner of Income Tax has passed a reasoned and speaking Order on 31.05.2004, annexed as annexure A-1, against which the present O.A. has been filed.

4. The O.A. has been opposed by the respondents, who have stated in their counter affidavit that D.P.C. for promotion to the post of Income Tax Officer was convened on 22.09.1995 with the panel of 31 vacancies. This panel was exhausted only on 04.11.1996. Subsequent D.P.Cs for promotion to the post of Income Tax Officer were held on 30.06.1997 and 22.07.1998. They have, therefore, stated that the D.P.Cs have been held at regular interval strictly in accordance with the instructions of the Departmental of Personnel & Training on the subject. It is also stated that the Departmental Promotion Committee was convened in September 1995 i.e. long before the declaration of the result of Departmental Examination for Income Tax Officer Group 'B' 1995 i.e. on 14.02.1996. Since the applicant was not eligible on that date when D.P.C. was held, i.e. on 22.09.1995 his name was not included for consideration. It is also stated by the respondents that passing of departmental examination entitles an Officer for two advanced increments from the date of passing the examination and accordingly the present applicant has been extended two advanced increments w.e.f. 03.07.1995 and for all other purposes including that of promotion, D.P.C. etc. it is the date of declaration of result, which is relevant.

5. We have given our careful consideration to all the pleadings of the applicant and also the averments made by the respondents. The main



grievance of applicant is that by Order dated 22.03.1996 he has been declared passed in the Examination, showing the date of passing as 03.07.1995. Therefore, he ought to have been considered and promoted as Income Tax Officer by the D.P.C. held in September 1995 on account of his merit and also on account of the fact that he was the senior most Inspector. We are afraid, we cannot agree with the above plea of the applicant that the departmental examination for promotion to the post of Income Tax Officer is admittedly held every year through out the country according to a fixed schedule. It so happened that one such examination was held on 03.07.1995 and the applicant, being qualified i.e. with 3 years qualifying service as Income Tax Inspector, appeared for the same and was found to have passed the same when the result was declared on 22.02.1996. We find that the D.P.C. was held on 22.09.1995 for total 31 vacancies comprising 21 existing vacancies plus six vacancies against retirement upto 30.06.1996 and 4 vacancies against promotion from Income Tax Officer to Assistant Commissioner, Income Tax. Accordingly the respondents had prepared a panel of 31 candidates. We find force in the plea of the respondents that the departmental examinations are conducted every year through out the country as per schedule and results are declared after approval by the Central Board of Direct Taxes simultaneously for all the regions. Since conducting of examination for the post of Income Tax Officer in a large department like Income Tax involves a number of exercises, it is possible that some time is taken from the date the examination is held till the results are declared. Therefore, it cannot be said that there was any malafide or wanton delay on the part of the respondents in declaration of result. Since as per rules, the date of declaration of result is relevant for convening the D.P.C., the department could not agree to the request of the applicant for including his name in the D.P.C. held on 22.09.1995, more so since on that date it was not known whether the applicant would qualify in the examination or not. In any case, it cannot be said that the result was purposely delayed. The applicant could not be considered in the D.P.C. held on 22.09.1995 because the results of examination were not known on that date. We also find force in the plea of the department that there would be no question of review D.P.C. since the applicant was neither eligible to be considered as



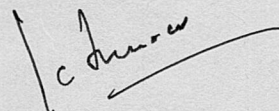
on that date of D.P.C. i.e. September 1995; nor was he left out by mistake or any procedural irregularity.

6. In the light of above discussion, we find no substance in the O.A., which is dismissed accordingly. No order as to costs.



Member (A)

/M.M./



Vice Chairman