

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

This the 08th day of September 2009.

HON'BLE MR. A. K. GAUR, MEMBER (J)
Hon'ble Mr. D. C. LAKHA, MEMBER (A)

ORIGINAL APPLICATION NO. 42 OF 2005

Krishna Chand Gupta aged about 61 years, son of Late Sita Ram Gupta, Resident of 1/99 Jhansi Town Area (New Jhansi), Allahabad.

.....Applicant

V E R S U S

1. Union of India through Defence Secretary, Ministry of Defence Government of India, New Delhi 110011.
2. Director General of Ordnance Services, Army Head Quarters D.H.Q. P.O. New Delhi-110011
3. Officer Incharge, A.O.C. Records, Secunderabad.
4. Commander, Ordnance Depot, Allahabad.

.....Respondents

Present for the Applicant: Sri Swayamber Lal

Present for the Respondents: Sri Sumitra Singh

ORDER

BY HON'BLE MR. A.K. GAUR, MEMBER (J).

We have heard Shri Swayamber Lal learned counsel for the applicant and learned counsel for Respondents.

2. Learned Counsel for the applicant invited our attention to the order dated 15.12.2003, where by the charges leveled against the applicant were dropped on humanitarian ground.

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The applicant, thereafter, filed a representation dated 29.01.2004 claiming promotion on the post of Senior Store Superintendent. Mr. Swayamber Lal learned counsel for the applicant submitted that the applicant has already been granted two promotions one for the post of Senior Store Superintendent and second for the post of Ordnance Officer Civilian (Store).

3. Mr. Swayamber Lal learned counsel for the applicant, invited our attention to the decision of Hon'ble Supreme Court reported in 2002 SCC (Labour & Service) 312 Food Corporation of India Vs S. N. Nagarkar and paras 18, 19, 20 of the said decision has been relied upon by the learned counsel for the applicant.

4. Learned counsel for the applicant has also placed reliance on the decision reported in 2005 Vol. II ATJ 103 Shri Ram Roop Sharma and other Vs. General Manager Northern Railway, New Delhi & Ors., In order to buttress the contention, that the respondents were liable to pay the arrears of salary from the date of promotion of the applicant.

5. Learned counsel for the respondents invited our attention to paragraph two and three of the Supplementary Affidavit filed by the respondents. The stand taken by the respondents is that the applicant was recommended for promotion by the Departmental Promotion Committee, held in May 2000, and due

to disciplinary proceedings pending against him at that time the applicant was not promoted subsequently, when the disciplinary action against the applicant was dropped the applicant was promoted to the grade of Senior Stores Superintendent w.e.f. 01.09.2000 in the pay scale of Rs. 5500 – 9,000/- and thereafter in the grade of Ordnance Officer Civil w.e.f. 19.02.2004 vide order dated 21.11.2005 and 07.03.2006.

6. We have carefully gone through the record and perused the pleadings of the parties carefully, we are firmly of the view that the applicant is entitled to get actual Monetary benefits on the principle that he has not shouldered higher responsibility. The Principle of law enunciated by Hon'ble of Supreme Court in this regard is clear that the person who has not shouldered higher responsibility and has been allowed promotion on notional benefits will not be entitled to actual monetary benefits. The Apex Court in its decision reported in **JT 2006 (12) SC 331- Union of India Vs. T. Lal** has approved the aforesaid principle of Law.

7. In view of the aforesaid observations the case law relied upon by the learned counsel for the applicant is not convincing. We find no merit in the O.A., it is accordingly dismissed.


8. The applicant has already been granted notional promotion and in view of grant of notional promotion he would be entitled

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to get higher pensionary benefits according to rules. If the applicant has not been granted the benefits of notional promotions as yet, it will be open to him to file a fresh representation to the concerned Competent Authority, within a period of two weeks from the date of receipt of copy of the order and if such a representation is filed, Concerned Competent Authority shall consider and pass appropriate reasoned and speaking order according to rules within a period of three months, from the date of receipt of copy of this order.



Member-A



Member-J

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