

**OA NO. 291/527/2012**

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR**

**ORIGINAL APPLICATION NO. 291/527/2012**

Order reserved on 09.08.2021

**DATE OF ORDER:** 13.08.2021

**CORAM**

**HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER  
HON'BLE MRS. HINA P. SHAH, JUDICIAL MEMBER**

R.A. Rattawa s/o Shri Bal Kishan Rattawa by caste Rattawa, aged about 61 yrs, r/o 6252 SFS Mansarowar, Jaipur, present ret. As senior accounts officer o/o the Pay and Account Office, Salt Dept. Jaipur.

....Applicant

Shri B.K. Jatti with Ms. A.B. Jatti, counsel for applicant (through Video Conferencing).

**VERSUS**

1. Union of India through the Controller General of Accounts, Ministry of Finance, Dept. of Expenditure, Lok Nayak Bhawan, Khan Market, New Delhi.
2. Chief Controller of Accounts, Ministry of Industry, Udhoyag Bhawan, New Delhi.
3. Shri C.R. Sundra Murti Controller General of Accounts, Lok Nayak Bhawan, Khan Market, New Delhi.
4. Mr. Subhash Chandra, Pay and Accounts Officer (Pension and Fund) 12 A, Jam Nagar House, New Delhi.
5. Shri S.K. Dash Pandey, Zonal Accounts Officer, Central Board of Direct Taxes (CBDT), Bhopal 82, Maharana Pratap Nagar, Zone-II, Opposite Sangam Talkies, Bhopal.
6. Mr. K. Pandu Rangan Assistant Controller of Accounts, Central Board of Excises and Customsmanager, North West Railway, Jaipur.

**OA NO. 291/527/2012**

7. Mr. C.P. Shrivastava, Pay and Account Officer (Sectt.) New Delhi, Trikoot li Complex, III floor, Bikaji Kama Place, R.K. Puram, New Delhi.
8. Mr. A.K. Dutta, Finance Officer to Chief Engineer, CPWD, I floor, Kendriya Sadan, Sector-9, Chandigarh.
9. Mr. Charanjeet Nahr, Pay and account officer (food and PD) 12A Jam Nagar House, New Delhi.

.... Respondents

Shri Lalit Mohan Bhardwaj, counsel for official respondents (through Video Conferencing)

### **ORDER**

**Per: Hina P. Shah, Judicial Member**

The present Original Application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 for the following reliefs:-

- "8.1 That by a suitable writ/order or the direction the impugned order vide Annexure A/1 be quashed and set aside,
- 8.2 That by a suitable writ/order or the direction the respondents be directed that the promotion of Junior Administration grade be allowed to the applicant against the vacancies of 2008-2009, 2009-2010, 2010-2011 with all the consequential benefits.
- 8.3 That the promotion of Junior Administration grade has been allowed to the junior officers, therefore the humble applicant is also entitled for this promotion, therefore the name of the humble applicant be added in the order of 15/3/2011 by which the Junior Officers have been allowed the promotion of Junior Administrative grade.

**OA NO. 291/527/2012**

8.4 Any other relief which the Hon'ble bench deems fit."

2. The brief facts of the case, as stated by the applicant, are that the applicant was appointed as Auditor on 12.09.1973 in the office of A.G. Rajasthan at Jaipur. He was promoted as JAO/AAO on 27.05.1981 and thereafter as Pay & Accounts Officer on 27.11.2000. On 01.04.2002, the applicant was promoted as Senior Accounts Officer in National Highway (Ministry of Road Transport and Shipping) Jaipur and further was to be promoted as Assistant Controller of Accounts as ICAS in Junior Administrative Grade. Pertaining to the orders of promotion to the post of Assistant Controller of Accounts, no correct procedure was followed as junior officers to the applicant have been allowed promotion. Thus, as the act of respondents is arbitrary, illegal and contradictory to the rules, the applicant has filed the present Original Application for redressal of his grievances.

3. The official respondents have filed their reply stating that the applicant is claiming his promotion to the Indian Civil Accounts Service (ICAS) but he has already retired from service on 30.11.2010 and none

**OA NO. 291/527/2012**

of the applicant's juniors have been promoted before the said date, thus, the applicant cannot be promoted as per rules. Earlier OA No. 244/2012 filed by applicant was dismissed as withdrawn vide order dated 23.04.2012 after hearing the said matter at length. Subsequently, the applicant has also filed OA No. 287/2011 claiming similar reliefs as claimed in the earlier OA and same was disposed of by this Tribunal vide order dated 25.07.2011 directing the official respondents to dispose of the representation dated 18.04.2011 which was decided by the official respondents vide letter dated 13.12.2011 wherein the position regarding promotion of applicant's juniors after his retirement has been elaborately explained. It is a settled law that a government servant has right to be considered for promotion but cannot claim promotion as such. It was made clear that while the applicant was in service, none of his juniors were promoted and he has no right to claim retrospective promotion after his retirement. Also in the third round of litigation, the applicant has failed to give valid grounds for retrospective promotion from any date prior to 30.11.2010. Also the present OA is barred by limitation as the applicant is claiming promotion for

**OA NO. 291/527/2012**

the years 2008-2009, 2009-2010 and 2010-2011. The official respondents had already replied to the applicant on the said issue vide their letter dated 13.12.2011, (Annexure A/1), with regard to the applicant's claim for promotion. The official respondents further stated that the applicant in the present OA has enhanced his claim for promotion to the post of Junior Administrative Grade, which is two stages higher than Assistant Controller of Accounts without any justified reasons merely to prolong litigation. Though the applicant was within the zone of consideration for promotion but as DPC was conducted on 11.02.2011 and the promotions vide order dated 15.03.2011 were prospective as the applicant had already retired from service on 30.11.2010, thus, he has no right for promotion. As convening the DPC is a lengthy process, there was no delay on the part of official respondents. It was further stated that as none of his juniors are promoted while he was in service, therefore, he cannot claim retrospective promotion and as such he has no cause of action against the order dated 15.03.2011 and also as per the order of this Tribunal, the competent authority had already decided his representation and decision of the same

**OA NO. 291/527/2012**

was communicated to the applicant vide letter dated 13.12.2011. Thus, the action of the official respondents in passing the orders dated 13.12.2011 (Annexure A/1) as well as 15.03.2011 (Annexure A/2) are just and proper. Therefore the present Original Application deserves to be rejected.

4. We have heard learned counsels for the parties at length through Video Conferencing and examined the pleadings minutely and perused the judgments along with written submissions.

5. The applicant and the official respondents reiterated their submissions as stated earlier.

6. The short question which requires our consideration is whether the applicant is entitled for promotion after his retirement.

7. The factual matrix of the case is that the applicant was appointed as Auditor and thereafter promoted as JAO/AAO on 27.05.1981 and further promoted to the post of Pay & Accounts Officer on 27.11.2000 and on 01.04.2002, he was promoted as Senior Accounts Officer in National Highway (Ministry of Road Transport & Shipping) Jaipur. It was his

**OA NO. 291/527/2012**

contention that thereafter he was to be promoted as Assistant Controller of Accounts as ICAS in Junior Administrative Grade and that his juniors have been granted promotion.

8. We have observed that the applicant has retired from service as on 30.11.2010. This is the third round of litigation and earlier OA No. 287/2011 was disposed of by this Tribunal vide order dated 25.07.2011 directing the official respondents to decide the representation of the applicant and OA No. 244/2012 was dismissed as withdrawn which facts are not disputed by either parties. In the present O.A., the applicant seeks promotion in Junior Administrative Grade against the vacancies of 2008-2009, 2009-2010 and 2010-2011 on the premise that the said promotion are given to his juniors. But it is a fact that none of the juniors of the applicant have been promoted while the applicant was in service. The process of considering Senior Accounts Officers for promotion for the year 2010-2011 was initiated in January 2010 and 47 candidates including the applicant were in the zone of consideration. But the process for conducting DPC being lengthy and time consuming and several procedures to be completed

**OA NO. 291/527/2012**

and all documents being sent to UPSC, the said DPC was held on 11.02.2011. By the said time, the applicant had already retired from service on 30.11.2010. The said promotions were prospective and as the applicant had retired from service, no promotion order in the case of the applicant could be issued. Thus, the promotion order dated 15.03.2011 was prospective and, therefore, as stated in catena of judgments, the applicant has no right for any retrospective promotion. Thus, the action of the official respondents is just and legal and the allegation of the applicant pertaining to malafides and arbitrariness cannot be accepted as the said are wholly unjustified.

9. We are in agreement with the judgments/orders relied by the official respondents and some of them are:-

- a) Hon'ble Supreme Court judgment in the case of Union of India & Ors. vs. K.K. Vadera & Ors., reported in (1989) Supp (2) SCC 625.
- b) Hon'ble Supreme Court judgment in the case of Baij Nath Sharma vs. Hon'ble Rajasthan High Court at Jodhpur & Anr., (Civil Appeal No. 4563/1998, Date of judgment 02.09.1998), reported in (1998) 7 SCC 44 : 1998 SCC (L&S) 1754.
- c) W.P. (C) No. 4908/2007 (Union of India vs. R.N. Malhotra), decided by the Hon'ble Delhi



**OA NO. 291/527/2012**

High Court vide judgment dated 06.07.2012.

- d) OA No. 1884/2019 (S.K. Bhasin vs. New Delhi Municipal Council) decided by C.A.T., Principal Bench, New Delhi vide order dated 04<sup>th</sup> July 2019.
- e) OA No. 30/18 (Arvind Kumar Saxena vs. Union of India) decided by C.A.T., Jaipur Bench, vide order dated 27.07.2021.

The gist of these judgments/orders are that an employee could certainly have a grievance, if any, of his juniors had been given promotion from a date prior to his superannuation and such is not a situation in the present case as the juniors have been given promotion as per the orders dated 15.03.2011 that is much after his retirement.

10. In view of the observations made herein-above, we do not find any illegality in the orders passed by the official respondents and do not wish to interfere in the same. As the present Original Application is devoid of merits, the same is accordingly dismissed with no order as to costs.

**(HINA P. SHAH)**  
**JUDICIAL MEMBER**

**(DINESH SHARMA)**  
**ADMINISTRATIVE MEMBER**

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