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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD, BENCH ALLAHABAD

Original Application No. 517 of 1987

Shamim Uddin Jafri Applicant

Versus

The Comptroller and Auditor
General of India New Delhi, & others Respondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. A.B. Gorthi, Admn. Member.

(By Hon'ble Mr. Justice U.C. Srivastava, V.C.)

Feeling aggrieved from non-grant of selection grade of Auditor, the applicant who claimed the same with retrospective effect approached this Tribunal praying that he may be granted selection grade with retrospective effect i.e. 1.7.1983 when he was due to be promoted to the said selection grade and that the respondents may be directed to fix his salary accordingly in senior Auditor grade.

2. The applicant was appointed as Assistant in the office of Accountant General on 1.4.1986 and after passing the Departmental confirmatory examination, he was re-designated like other upper Divisional Clerks. The applicant earned increments and also permitted to cross efficiency bar and he reached the maximum of the grade. The promotion of the applicant to the selection grade became due in July 1983 but in that year he was superseded and juniors promoted to the selection grade w.e.f. 1.7.1983 against which he represented but he was informed that the D.P.C. considered ^{him} ~~the case~~ for promotion to the selection grades but he was found unfit and another representation preferred by the applicant was also rejected. The applicant was given entry for the year 1982-83 and 1981-82 and later on for 1981-82, ^{on} his representation the entry of 1982-83 which was also before the Departmental Promotion Committee, it was expunged and thereafter the applicant made another representation for consideration of his case

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as the adverse entries of 1981-82 had already been expunged but his representation was turned down, and thereafter also he made another representation on 18.7.1985. 17 posts of selection grade Auditors ~~and~~ after recasting the vacancies for the selection grade occurred and 17 employees who were earlier promoted as senior Auditor on 1.3.1984 and who were junior to him, were considered for the post and were allowed the selection grade w.e.f. 1.9.1984 and the applicant was again ignored this time and against which he represented but no favourable action was taken. On 1.3.1989 office of Accountant General was bifurcated in ^{two} independent branches i.e. audit and account. The applicant was selected as a senior auditor in the grade of Rs. 425-800/- on 1.3.1984 in the face of it and the adverse entries which was relied against him, was still standing. The applicant's grievances are that he was associated with the Trade Union activities that is why promotion was not given to the applicant.

3. . The respondents have disputed the claim and it has been stated that although, the applicant was eligible for appointment to the selection grade Auditor w.e.f. 1.7.1983, by virtue of his seniority and his appointment to the said post was not only basis of seniority but also subject to fitness of eligible candidates. The applicant's fitness was considered by the Departmental Promotion committee, which found him unfit taking into consideration his confidential report of 1982-83, regarding Upper Selection Grade. It has been stated that in the audit side where auditors were given appointment to the post of senior Auditor which were treated as involving higher responsibilities and duties, on the basis of seniority appointed as senior Auditor on functional basis. The applicant's representation was duly considered and it was rejected. The position, thus appears to be that Departmental Promotion Committee taken into

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consideration, the adverse entries of 1982-83 and in view of the adverse entries the Departmental Promotion Committee did not find him fit. It appears that after bifurcation and expunction of adverse entries, he might have been promoted on the functional basis and seniority was the main criteria. It appears that it was considered that the applicant was fit for promotion and that is why seniority was given effect to.

4. It may be that the Departmental Promotion Committee which met and considered the case of the promotion of the applicant earlier when his juniors were promoted at one entry instead of two only would have been there. The Departmental Promotion Committee would have arrived at the conclusion. The entry of 1982-83 was expunged and after expunction of entry the case of the applicant could have been considered. That was not done but the applicant was deprived of promotion because of two adverse entries one of which became non ^{is} extent. In these circumstances, the applicant who was required to be considered can even now be considered. Accordingly this application is partly allowed. The respondents are ^{directed} ~~promoted~~ to convene a review Departmental Promotion Committee within a period of three months from the date of communication of this order and consider the case of applicant for promotion to the said post. In case, the applicant is found fit for promotion he can be promoted from the date his juniors were promoted and it will be a notional promotion. With effect from that date the applicant will be entitled to all other benefits of promotion and monetary benefits will accrue to him from the date of his promotion. No order as to costs.

Handwritten signature
A.M.

Handwritten signature
V.C.

Allahabad, dated 25-10-1991.

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