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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH.

O.A.No.862 of 1987.

Suresh Kumar Sharma .....Applicant.

Versus

Union of India .....Respondent.

Hon'ble Mr.Justice U.C.Srivastava,VC

Hon'ble Mr.K.Obayya,A.M.

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

The applicant entered the service of Defence Accounts Department as Record Clerk and after passing S.A.S.Part I, Departmental Examination in 1970, he was confirmed as Upper Division Clerk w.e.f. 19.7.71. The applicant also passed the SAS Part II Examination in November, 1972 and was promoted as Officiating Accountant now designated as Section Officer (A) w.e.f. 14.5.73. In the Departmental Seniority List, the applicant's position was shown at Roaster No.OA/1034 and on 3.3.78, a confirmation list was published and in the confirmation list one A.Subrahmanyam, who was junior to the applicant, was declared confirmed w.e.f. 1.1.77 but the applicant was not confirmed on 1.1.77. The applicant made various representations against the same. On 16.12.82, another Part II Office Order dated 16.12.82 was issued by which the applicant was also confirmed w.e.f. 1.2.77. The grievance of the applicant is that he was not confirmed w.e.f. 1.1.77 on which date the said Subrahmanyam was confirmed although the applicant was confirmed along with the said Subrahmanyam on the post of Upper Division Clerk on the same date.

2. The respondent has resisted the claim of

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C/o C.A.T. Bar Allahabad

the applicant stating that in the year 1975, the applicant was given an average entry which was accepted to be adverse-remark and in the year 1978, he could not be confirmed. As his confidential report was clear in the year 1979, only then he was declared confirmed as per existing criteria.

It has been further stated that the Departmental Proceeding Committee was convened to consider the case of the applicant. The said DPC recommended him fit for promotion. The DPC did not give any specific date for confirmation, that is why it was decided to confirm him w.e.f. 1.2.77 for the reason that the vacancy was available only on that date. It is, thus, clear from the above facts that as certain adverse remarks were against the applicant, he was not confirmed earlier and his juniors were confirmed. So far as the average entry is concerned, the same could not be treated as adverse-entry. The entry for the year 1978 was adverse and the same was followed by warning-letter. It was never expunged. The applicant was given adverse entry in the year 1978 i.e. subsequent to due date/when the applicant was to be confirmed. The applicant was entitled to be confirmed w.e.f. 1.1.77. It appears that the average entry of 1975 was taken as an adverse-entry, that is why the confirmation was not given. The entry of 1978 could not have stood in the way as the date of confirmation was earlier to that. Accordingly, it is directed that the applicant/who was confirmed on 1.2.77 in pursuance of his representation but it will be deemed for other purposes as if he

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was confirmed w.e.f. 1.1.77. With these observations,  
the application is disposed of without any order  
as to costs.

MEMBER (A)

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DATED : MARCH 27, 1992

VICE CHAIRMAN.

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