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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

Registration O.A. No. 847 of 1990

Nar Pingal Applicant.

Versus

Controller General of Accounts Ministry
of Finance, Department of Expenditure &
others. Respondents.

Hon'ble Mr. D.K. Agrawal, J.M.
Hon'ble Mr. A.B. Ghosh, A.M.

(By Hon'ble Mr. D.K. Agrawal, J.M.)

This application under section 19 of the Administrative Tribunals Act, 1985 has been filed by on Nar Pingal posted as Assistant Accounts Officer, Geological Survey of India, Aliganj, Lucknow. The grievance expressed by him is that he was due to be promoted as pay and Account Officer but neither promotion has been given to him nor his request for posting at Lucknow has been acceded to. The pleadings are complete, therefore, we have heard the learned counsel of the parties on the merits of the case.

2. The counter affidavit mentions that the applicant could not be posted at Lucknow because of the option given by his seniors for posting at Lucknow. We are not very sure about this because we find an allegation in para-40 that one Y.P. Sharma opted for his posting at Allahabad but instead of adhering to his option, he was posted at Lucknow. Therefore, we do not know as to how and why the applicant could not be accommodated at Lucknow. Still however, we feel that our interference in the matter of posting is not called for. It should be left to the discretion of the appointing authority. But, we fail to understand as to and on what principle, the applicant

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has been denied of his promotion on the post of pay and Account Officer from the due date. At least nothing has been brought on record which could justify the denial of promotion to the applicant. We do not understand on what basis it has been alleged in para-28 that the petitioner is deemed to have foregone his promotion. We do find on record that option of the applicant was called for a choice of station of posting. However, we do not see any offer of appointment available on record. Surprisingly, it has not been mentioned either in the counter affidavit that an offer of promotion with posting at a station other than Lucknow was severed on the applicant and he did not comply with the same. We may also observe that mere offer of appointment will not be sufficient. The appointing authority has to specifically give notice to the applicant that in case the offer of promotion is not acted upon, the right of the applicant to the promoted post will stand forfeited till the next selection. Therefore, we are constrained to say that the action of the respondents is open to question in denying the promotion to the applicant to the post of pay and Account Officer from due date. We may also observe in passing that the claim petition has not been properly drafted. The pleadings of the parties however, bring it out clearly that the applicant's right to promotion is being wrongly denied to him, therefore we consider it necessary to adjudicate upon the same in a clear manner.

3. In the result, we hereby allow this petition in part and direct the respondents to accord the promotion to the applicant with all consequential benefits to the

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Dr. Aggarwal

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post of pay and Account Officer from due date forthwith.
The claim petition in respect of his choice in posting
at Lucknow is left to be considered by the competent
authority in a fair and impartial manner. The petition
is accordingly disposed of. Parties to bear their own
costs.


Member (A)

Dated: 11.09.1991
(n.u.)


11.9.91.
Member (J)