

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 7th day of November, 2000

Original Application No.198 of 1993

CORAM:-

Hon'ble Mr. Rafiquddin, J.M.

Hon'ble Mr. S. Biswas, A.M.

K.B. Saxena,

S/o Late Shri Lal Bahadur Saxena,

Resident of A-3/4, Rahghat Colony,

Nandanpura, Jhansi.

(Sri RK Nagam, Advocate)

.....Applicant

Versus

1. Union of India through Secretary,

Ministry of Defence, Govt. of India,

New Delhi.

2. Controller General of Defence Accounts,

West Block-V, R.K. Puram, New Delhi.

3. Controller of Defence Accounts(PD),

Meerut Cantt.

(Km. Sadhna Srivastava, Advocate)

.....Respondents

O R D E R (O r i g i n a l )

By Hon'ble Mr. Rafiquddin, J.M.

The applicant who is working as Assistant Accounts Officer has filed this application for quashing the order dated 29-5-1991 (Annexure-1 to the OA) and also the order dated 4-12-1992 (Annexure-A-2). The applicant has also sought a direction to be issued against respondents for considering him for promotion to the post of Accounts Officer and to promote him from the date of his counterparts were promoted with all consequential benefits. By the said order dated 29-5-1991 the applicant was informed that his case was

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considered by the DPC for promotion to Accounts Officer's grade but recommendations were kept in a sealed cover and by the order dated 4-12-1991, the appellate authority has rejected the appeal preferred against the aforesaid order dated 29-5-1991.

2. The case of the applicant in brief is that he being eligible to be promoted as Accounts Officer appeared before the DPC on 17-8-1990. However, the applicant vide the impugned order dated 29-5-1991 was informed at a belated stage that he could not be promoted because the recommendation of the DPC has been kept in a sealed cover. The junior counterparts of the applicant have been promoted on the post of Accounts Officer w.e.f. 15-1-1991. They have no better merit than the applicant and since the representation made by the applicant has been rejected by the appellate authority also, he has filed this OA for the aforesaid direction.

3. We have heard counsel for both sides and perused the record carefully.

4. It has been pointed out by the learned counsel for the respondents that due to involvement in a fraudulent payment case pending against the applicant while he was serving in DPDO Sangrur his case for promotion was kept in sealed cover. It is further stated that the decision was taken to initiate disciplinary proceedings against the petitioner at the time of DPC, the case of the applicant was correctly placed in the sealed cover. It is also stated that the applicant was awarded punishment of censure at the conclusion of disciplinary proceedings. It has, however, been contended by the learned counsel for the applicant that since

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the punishment of censure does not amount to misconduct the case of the applicant for promotion in the DPC should have been considered by the DPC. We find that the punishment of censure, it appears, was awarded, after conclusion of the DPC. Therefore, it was necessary for the respondents to consider the case of the applicant for promotion in the next DPC. Learned counsel for the parties are not in a position to state whether the name of the applicant was considered in the subsequent DPC or not. We, therefore, dispose of this OA with the direction to the respondents to consider the case of the applicant for promotion as Accounts Officer in the next DPC in case his name has not been considered after 30-4-1992 when the censure punishment order was awarded. Necessary order shall be passed within three months from the date of communication of this order. There shall be no order as to costs.

*S. Dube*

Member (A)

*R. Rodriguez*

Member (J)

Dube/