

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 169 of 2000

Monday, this the 26th day of March, 2001

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. A. Adhikaranathaiar,
Sr. Accountant, Office of the
Accountant General (A&E), Kerala,
Thiruvananthapuram.Applicant

[By Advocate Mr. M. Rajasekharan Nayar]

Versus

1. Union of India, represented by the
Secretary to Govt. of India,
Department of Personnel, Public
Grievances & Pensions, New Delhi.
2. Comptroller & Auditor General of India,
New Delhi.
3. The Accountant General (A&E), Kerala,
Thiruvananthapuram.Respondents

[By Advocate Ms. I. Sheeladevi, ACGSC]

The application having been heard on 26-3-2001, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

The applicant seeks to quash A1 order, to direct the 3rd respondent to grant him promotion with monetary benefits in the selection grade post of Auditor as applicable from time to time with consequential promotions in Group C post in the scale of Rs.1640-2900, order to relax the qualification necessary for promotion as Supervisor if deemed necessary and to direct the 3rd respondent to fix the pay in selection grade Auditor from the year 1979.

2. The applicant is an Ex-Serviceman. On 23-11-1976 he was reemployed as an Auditor in the office of the 3rd respondent. As per A3, an employee should have either

completed 14 years of service in the ordinary grade or crossed 3/4th span of the revised scale of pay of the ordinary grade. A1 though admits that the applicant has crossed 3/4th span of the revised scale in view of the seniority in the cadre of Auditor, ^{it says that} his turn did not come for granting selection grade in the cadre of Auditor. It is not correct to say that so far as Ex-Servicemen are concerned reservation of 10% for Group C posts in the cases of promotion also is not available. The denial of promotion to the applicant to the post of Supervisor is against the Supervisor (Accounts) Recruitment Rules, 1986.

3. Respondents resist the OA contending that the OA is barred by limitation. The settled matters of seniority and promotion cannot be unsettled after a lapse of time. The OA is bad for nonjoinder of necessary parties. Relaxation of recruitment rules is not possible in view of the law laid down by the Apex Court in Ravinder Sharma vs. State of Punjab [AIR 1995 SC 273] and Syed Khalid Rizvi vs. Union of India [(1994) 26 ATC 192]. Seniority in a post is counted from the date of appointment in that post. 10% of vacancies are reserved for Ex-Servicemen only in cases where such vacancies are filled by direct recruitment. A1 cannot be faulted in any manner.

4. The claim of the applicant relates to the year 1979. According to the applicant, since he filed OA 207/97 and there was an order directing the 2nd respondent therein to consider and pass a speaking order on the representation the applicant was permitted to submit, there is no bar of limitation. The question of limitation was not gone into in OA 207/97 and as the learned counsel appearing for the applicant submitted that the applicant may be permitted to make a representation to the 2nd respondent for redressal of his grievance and the learned counsel appearing for the respondents agreed to the same, it

was so ordered permitting the applicant to submit a representation to the 2nd respondent and directing the 2nd respondent to consider the same and pass a speaking order.

5. The applicant cannot seek his remedies retrospectively with effect from 1979 at this distance of time. His claim is highly belated and is to be thrown out on that ground itself.

6. If his promotion to the post of selection grade as well as promotion to the post of Supervisor is granted at this date, it will be unsettling the seniority of so many officers settled long ago. The settled seniority position cannot be unsettled after a lapse of considerable time. On this ground also, this OA is liable to be dismissed.

7. The applicant is relying on A3. In A3, para 2(ii) says that for becoming eligible to be considered for appointment to the selection*grade an employee should have either completed 14 years of service in the ordinary grade or crossed 3/4th span of the revised scale of pay of the ordinary grade and in this process if a junior becomes eligible for consideration by virtue of his having crossed 3/4th of the span of the scale in the ordinary grade while a person senior to him is not so eligible, the junior will not get any overriding priority in the matter of consideration for appointment to the selection grade.

8. The learned counsel appearing for the applicant fairly submitted that in the light of para 2(ii) of A3, the applicant is not entitled to the relief sought for selection grade.

9. The applicant also says that as an Ex-Serviceman he is entitled to 10% reservation for the post of Supervisor. That

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is applicable as seen from A4 only in the case of direct recruitment. The applicant is only claiming promotion. As the claim of the applicant is not in the area of direct recruitment, A4 cannot be of any help to the applicant.

10. The impugned order A1 says that the reliefs sought by the applicant are not admissible and his representation is rejected. For the reasons we have stated, we do not find any ground to interfere with A1.

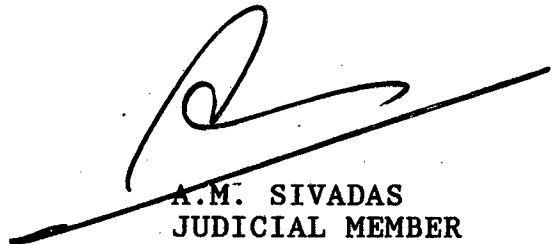
11. When there is no ground to interfere with A1, the applicant is not entitled to the other reliefs claimed also.

12. Accordingly, the Original Application is dismissed. No costs.

Monday, this the 26th day of March, 2001



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexure referred to in this order:

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| 1. | A1 | True copy of C&AG of India No. 1627 NGE(APP)/61-99 dated 21-12-99 communicated in AG Letter No. V/Misc./IV/548 dated 3-1-2000. |
| 2. | A3 | True copy of the Order No. 1067-NGE-IV/59-77 dated 20-9-79 of C&AG for promotion as Selection Grade Auditor. |
| 3. | A4 | True copy of Ex-Serviceman re-employment rules, 1979. Order No.39016/10/79-Estt(c) of Ministry of Home dated 15-12-1979. |

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.169/2000

Monday, this the 19th day of January, 2004.

CORAM;

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

A.Adhikaranathaiah,
Sr. Accountant,
O/o the Accountant General(A&E),
Kerala, Thiruvananthapuram. - Party in person

Vs

1. Union of India represented by
Secretary,
Department of Personnel & Training,
New Delhi.
2. The Comptroller & Auditor General of India,
No.10, Bahadur Shah Zafar Marg,
Indraprastha Head Post Office,
P.B.No.17,
New Delhi-110 002.
3. The Accountant General(A&E),
Kerala,
Thiruvananthapuram. - Respondents

By Advocate Mr C.Rajendran, SCGSC

O R D E R

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

The applicant, an Ex-service pensioner was re-employed as Auditor under the third respondent on 23.11.76 in the scale of Rs.330-560 which was lower than the pay he was getting as a Sergeant in the Indian Air Force. His pay was, however, fixed at a higher stage allowing one increment for each year of his 11 years' past service in the Indian Air Force. On 19.7.78 his pay was fixed as per option under FR 27. As on 1.7.79,

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the applicant crossed 3/4th of the ordinary scale for Auditor and, accordingly, as directed by this Bench of the Tribunal in an earlier order in O.A.207/97 dated 24.9.99, the applicant requested the third respondent to grant him the benefit of selection grade in the light of A-3 letter dated 20.9.79. This request was rejected. Thereafter the applicant filed O.A.169/2000 before this Tribunal. A Division Bench of this Tribunal, by order dated 26.3.2001, turned down the applicant's claim for promotion to the post of selection grade Auditor from 1979 and subsequent promotions to the post of Supervisor on grounds of limitation, impermissibility to unsettle the settled seniority position after a long lapse of time, ineligibility due to his being junior to others who could not be considered for appointment to the selection grade etc. The applicant moved the Hon'ble High Court of Kerala against the Tribunal's order. The Hon'ble High Court in its judgement dated 7.10.2002 in O.P.No.8856/2002 took note of a clarification (P-4 in the O.P.) issued by the Ministry of Finance, which had not been made available to the Tribunal at the time of hearing of the O.A. and found that the applicant's contention regarding his entitlement to selection grade Auditor was based on P-4 document. Accordingly, the case has been remanded to the Tribunal for passing fresh orders after rehearing the case in the light of P-4. When the matter was restored to the Tribunal, the applicant filed fresh documents including A-7 O.M. dated 13.2.1980 which is the same as P-4 taken note of by the Hon'ble High Court. The O.A. was suitably amended. The applicant has prayed, inter-alia, for the following reliefs:

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i) a direction to quash A-1 order and an order directing the 3rd respondent to grant promotion with monetary benefits in the Selection Grade post of Auditor as applicable from time to time. Selection Grade Auditor with effect from 1.7.1979;

ii) an order directing the 3rd respondent to grant consequential promotions and monetary benefits in Group 'C'/post in the office of the 3rd respondent in the scale of Rs.1640-60-2600-EB-75-2900 as provided in A-5 and as applicable from time to time with effect from 1.4.1992 and pensionary benefits accruing therefrom;

iii) an order, if any, for relaxing the qualification necessary for promotion as Supervisor if deemed necessary, also be allowed, as the applicant is eligible for such relaxation also under the Government of India orders at A-5;

iv) an order directing the 3rd respondent to fix the pay consequent on promotions to the post of Selection Grade Auditor and Supervisor (Accounts) as applicable from time to time for the respective posts from 1.7.1979 and 1.4.1992 and authorise pay and pension to the applicant on that basis;

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v) declare that the applicant is entitled to get selection grade Auditor promotion and the consequential Supervisor(Accounts) promotion with monetary benefits from 1.7.1979 and 1.4.1992 and pensionary benefits accruing therefrom from 31.5.2001;

vi) an order directing the 3rd respondent to pay interest at 12% for the sum due and arising out of grant of promotion as Selection Grade Auditor.

2. The respondents in their reply statement have raised the following preliminary objections:

i) The O.A. is badly barred by limitation as the applicant now seeks promotion to the post of Selection Grade Auditor from 1979 and subsequent promotions in the post of Supervisor. The authorities relied on the following Supreme Court decisions in 1995 31 ATC 198, (1996) 6 SCC 267, 1995 Suppl (4) SCC 593, (1998) 9 SCC 492 and JT 1999 (8) SC 289.

ii) Settled matters of seniority and promotion cannot be unsettled after a long lapse of time. The respondents rely on the decisions of the Supreme Court in 1975 Suppl. SCR 409, AIR 1986 SC 2086, (1991) 2 SLJ, 15.

iii) The O.A. is bad in law due to non-joinder of necessary parties whose promotion and seniority are

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adversely affected if relief sought for by the applicant is entertained.

iv) According to the respondents, though the applicant claims eligibility for promotion, he also seeks relaxation of the required promotional qualification. This is blowing hot and cold.

v) Recruitment Rules cannot be relaxed(for authority, refer to AIR 1995 SC 225, (1994) 26 ATC, 192).

vi) The respondents would maintain that the service rendered in the Indian Air Force would not entitle the applicant for being considered for the purpose of seniority in the post of Auditor and such service cannot be reckoned for purposes of subsequent promotions. Different recruitment rules are applicable to the post held prior to reemployment and the post of Auditor to which the applicant was appointed after discharge from the Air Force. Seniority in a post should be counted from the date of appointment in that post as held by the Hon'ble Supreme Court in 1990(2) SCC 715. It is clear from the instructions that a junior who crossed 3/4th of the time scale would not get any over riding priority over a senior because selection grade is a promotion based on seniority subject to rejection of the unfit.

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Going by the criterion of crossing the 3/4th of the span of pay scale of Auditor, the applicant might have become eligible. But having regard to his seniority in the cadre of Auditor as per rules, his turn had not come. It is pointed out by the respondents that there is no reservation for Ex-serviceman for promotional posts. The reservation is applicable only to direct recruitment. Service rendered in Armed Forces would be reckoned only for purposes of pay fixation on reemployment. Nothing beyond what is stated in the Ex-servicemen (Re-employment Central Civil Services and Posts) Rules, 1979 can be given. No concession/relaxation to any class or group of persons other than SC/ST in the matter of promotion to Supervisory post and beyond can be given unless there are specific Government orders regarding reservation, relaxation of age limit and other concessions. A-1, being a speaking order, could not be faulted. The applicant not due for promotion as Senior Auditor in 1979 could not claim fixation of pay with effect from 1979 and therefore could not be entitled to any consequential financial benefits.

3. Applicant filed a rejoinder refuting the argument that the O.A. is barred by limitation. According to the applicant, he had approached the authorities concerned in time. Attention is invited in O.A.No.207/97. There was also no question of non-joinder of necessary parties since none was promoted from the reserved category. In fact the applicant does not require any relaxation but implementation of the recruitment rules. Having crossed the 3/4th span of the

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grade, the applicant was eligible for Senior Auditor. The respondents have given promotions to those Ex-servicemen who had not completed 14 years or crossed 3/4th span of the relevant scale. The applicant was eligible to be promoted to the post of Supervisor (Accounts) as 10% of the vacancies were reserved for Ex-servicemen personnel. Accountants in the scale of Rs.1200-2040 with 10 years' regular service in the grade and who have passed departmental examination for Accountants were eligible for promotion. Applicant had satisfied all the conditions and he was hence eligible. It is maintained that O.M.No.2011/3/80-Estt. dated 16.6.80 cannot supersede the Recruitment Rules made under Article 309 of the Constitution. Hence the applicant ought to have received promotion as Supervisor. As per the Recruitment Rules, service rendered in the Air Force was relevant not only for fixation of pay but also for promotion in the re-employed post. O.M. dated 16.6.80 contravenes Recruitment Rules.

4. In their further reply statement, the respondents have contended that promotion to higher grade cannot be granted automatically on becoming eligible as interse seniority among eligible candidates had to be adhered to. Applicant's relative position compared to other eligible candidates was low in the feeder cadre and therefore no further promotion till he was promoted as Senior Accountant w.e.f. 1.4.87 in the new cadre after restructuring could be granted. The applicant's seniority position in the cadre of Auditor was with reference to his position in the panel from which he was appointed to the post of Auditor and no weightage could be

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allowed in seniority for service rendered in the Air Force. The applicant attained eligibility on account of crossing 3/4th of the span of the ordinary scale of Auditor. But his low seniority position in the Auditors' cadre did not permit placement in the Selection Grade Auditor.

5. We have heard Shri A.Adhikaranathaiar who appeared in person and Shri C.Rajendran, learned SCGSC. According to the applicant, he crossed 3/4th span of the revised scale of pay (Rs.330-560) as Auditor as on 1.7.79. By virtue of his crossing 3/4th span of the scale, he became eligible for the placement as selection grade Auditor with effect from 1.7.79. Once he crossed 3/4th span of scale in the ordinary grade, there was no need to satisfy the other condition regarding completion of 14 years. The provisions contained in the A-3 instructions have been clarified to the effect that any officer who had crossed 3/4th span in the revised scale of pay of the ordinary grade would be eligible for the grant of selection grade even if he did not fulfil the stipulation regarding completion of 14 years of service, the applicant would state. Thus, according to him, under the provisions of A-7 any officer whose pay in the ordinary grade had under any circumstance crossed the 3/4th span in the time scale of the ordinary grade, would be eligible for grant of the benefit of selection grade Auditor. The applicant would maintain that the respondents' contention that the applicant could not be given promotion to the selection grade because his seniority position amongst eligible candidates was low, was incorrect. He would contend that as per A-7, by virtue of his having

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crossed 3/4th span in the ordinary grade, he would be entitled to be promoted to Selection Grade Auditor's post without affecting the seniority of others. As per A-9 counter filed on behalf of the respondents before the Hon'ble High Court of Kerala in O.P.No.8856/2002 the respondents had stated that there were 52 selection grade vacancies upto 1994. Therefore the argument that there were no vacancies was not correct. It was pointed out by the applicant that some Auditors like Josephine Motha, Jagadamma, P.J.Gopikuttan and Mercy K.Oomen who were drawing lesser pay than the applicant were given promotion to selection grade Auditors in 1980. Selection grade Auditors were eligible for the next higher grade i.e. Supervisor(Accounts) as is clear from paragraph 4 of A-7 and paragraph 3.3 of A-8 according to the applicant. 20% of the vacancies in the cadre of Section Officers were to be filled by promotion from Selection Grade Accountants. The applicant's case is that even going by the vacancy position of Supervisors, the applicant would be eligible in the light of A-5 Recruitment Rules, A-7 clarification and A-8 eligibility clause to get Supervisor(Accounts) post with effect from 1.4.92.

6. Shri C.Rajendran, learned SCGSC would strongly rely on the contentions raised in the reply statement and maintained that the application is badly hit by bar of limitation since the applicant is raising questions of promotions to the post to Selection Grade Auditor from 1979 and subsequent promotion to the post of Supervisor. He also would maintain that since the O.A. has the effect of unsettling long settled matters of

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seniority, the same could not be maintained in the light of the well known principles laid down by the Supreme Court. The officials who are likely to be adversely affected if relief sought for by the applicant is given, have not been impleaded in this O.A. and therefore the O.A. was bad in law for non-joinder of necessary parties. Learned counsel has also maintained that though the applicant attained eligibility for being considered for the placement in Selection Grade, the same could not be granted to him on account of his low seniority position. It cannot be denied that crossing 3/4th span of ordinary scale in the grade of Auditor ipsofacto would not make the applicant eligible for placing in selection grade Auditor's post. No doubt, he would be eligible to be considered for such placement. But it was absolutely necessary to determine who among the eligible candidates could be given such placement and for this purpose interse seniority alone was the criterion. Learned SCGSC would maintain that the importance of interse seniority in the matter of promotion to selection grade Auditor laid down in A-3 has not been nullified by the subsequent clarification contained in A-7. The applicant seems to be under the mistaken notion that once he crossed the 3/4th span in the ordinary scale placement in selection grade was automatic. That is not correct. 20% of the posts in the grade of Auditors were earmarked for selection grade Auditors and these posts would have to be filled only by following the principles of seniority with regard to those who have satisfied the eligibility criterion. But since the overall limit of 20% of the Auditors posts remained unchanged, the applicant's argument that vacancies are not limited to 20% of

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the Auditor posts was untenable. Similarly, placement in the post of Supervisor being one by selection of those eligible candidates who came in the zone of consideration, the applicant who was not within the zone of consideration for the post of Supervisor could not be considered. Learned SCGSC would state that the applicant was promoted as Senior Accountant with effect from 1.4.87 and having regard to his low seniority position in the list of Senior Accountants, the applicant could not even enter the zone of consideration as several of his seniors were awaiting promotion as Supervisor. There is no case of any junior having been promoted in preference to him. No malafides have been shown. Therefore the applicant's case that he was eligible for promotion to the post of selection grade Auditor in the first place and then to the higher promotional posts like Supervisor could not be entertained, the learned SCGSC would urge.

7. We have very carefully gone through the pleadings and the material on record and have also considered the arguments put forward by the applicant and the learned SCGSC, having regard to the Hon'ble High Court of Kerala's directions. The primary objections of time bar, non-joinder of parties etc. are not considered in the light of the Hon'ble High Court's finding that the applicant's claim should be reconsidered in the light of Exhibit-P4 which is A-7 in the present O.A. In other words, the case is reconsidered on merits.

8. The applicant seeks promotion to the selection grade post of Auditor with effect from 1.7.79 and further

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consequential promotion in Group 'C' post of Supervisor with all the benefits flowing therefrom. In this regard we notice that the applicant's claim is primarily based on A-3 circular dated 20.9.79 by which the then existing scale of Rs.425-640 for selection grade Auditors was revised to Rs.425-700 and the then existing functional selection grade posts of Auditors were converted into non-functional selection grade Auditors with effect from 1.8.76. The terms and conditions governing the operation of selection grade in the Auditor in the scale of Rs.425-700 as are germane to the point at issue are contained in paragraph 2(i), (ii), (v) and (vi) of A-3 which are reproduced hereunder:

"(i) The strength of Selection Grade will be 20 per cent of the posts in the ordinary grade which have been in existence for 3 years, irrespective of whether they were permanent or temporary.

(ii) For becoming eligible, to be considered for appointment to the Selection Grade an employee should have either completed 14 years of service in the ordinary grade or crossed 3/4th span of the revised scale of pay of the ordinary grade. In this process if a junior becomes eligible for consideration by virtue of his having crossed 3/4th of the span of the scale in the ordinary grade while a person senior to him is not so eligible, the junior will not get any overriding priority in the matter of consideration for appointment to selection grade.

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(v) Promotions to Selection Grade will be on the principle of seniority subject to rejection of unfit as laid down in Department of Personnel and Administrative Reforms O.M.No.22011/5/77-Estt.(D) dated 30.12.1977 circulated with our letter No.441-NGE-III/7-77 dated 14.3.1978.

(vi) The scheme of reservations for candidates belonging to Scheduled Castes and Scheduled Tribes will apply in making appointments to the selection grade as enunciated above."

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By Ministry of Finance's O.M. dated 24.10.78 it was clarified that an employee who has crossed 3/4th span of the revised scale of pay of the ordinary grade will be eligible for the grant of selection grade even if he does not fulfil ^{the} criterion regarding the length of service of 14 years. Thus, 14 years service is no longer an imperative condition. Crossing of 3/4th span of the scale in Auditor's post would therefore be sufficient for promotion to selection grade Auditors. This position is only reiterated and clarified in paragraph 2 of A-7 which reads as under:

"2. In the Ministry of Finance O.M. dated 24.10.78 it has been clarified that in respect of selection grades to Group C and D posts, any officer who has crossed 3/4th span of the revised scale of pay of the ordinary grade will be eligible for the grant of selection grade, even if he does not fulfil the length of service condition i.e. 14 years, thus, any officer whose pay in the ordinary grade, has under any circumstances, crossed the stage in the time scale of the ordinary grade, appropriate to 3/4th span will become eligible."

Thus, it is beyond controversy that once an employee crossed 3/4th of the ordinary scale of Auditors, he would become eligible to be placed in the Selection Grade. We do not find that this position has been disputed by the respondents either.

9. The question that now arises is whether promotion to Selection Grade is automatic when the employee crossed 3/4th of the scale. In our view, it is not automatic. In the first place, the strength of the Selection Grade was limited to 20% of the posts in the ordinary grade as per sub para (i) of

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paragraph 2 of A-3 quoted above. The applicant has raised a contention that the said ceiling of 20% has been removed by A-7. We do not see anything in A-7 to support this contention. The applicant's impression that the moment an ordinary grade Auditor crosses the stage in the relevant time scale appropriate to 3/4th span, he would be entitled to placement in the selection grade is erroneous. A-7 which is clarificatory in nature lays down that any officer whose pay in the ordinary grade has under any circumstances crossed the stage in the time scale of the ordinary grade appropriate to 3/4th span, would become eligible for the grant of selection grade. It means that the moment an employee crossed 3/4th span of the scale of the ordinary grade, he would attain eligibility for grant of selection grade. It does not necessarily mean that the moment one crosses 3/4th span, as a natural corollary, one gets placement in the selection grade. The process of fitment in the selection grade is explained in the subsequent paragraphs of A-7. While granting selection grade in Group C and D posts ^{is} not with respect to the seniority list, but taking into account the eligibility criterion of length of service or crossing of 3/4th span of the relevant scale as the case may be, it is enjoined by A-7 that the DPC should prepare the panel on the basis of rejection of the unfit and make appointments to the selection grade accordingly. It is specifically stated in paragraph 3 of A-7 that appointments made to the selection grade on or after 30.12.77 should be on the basis of seniority subject to the rejection of the unfit and that where no appointments to the selection grade have been made till 30.12.77 and

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appointments are to be made after that date, then such appointments should invariably be made on the basis of seniority subject to the rejection of the unfit. In paragraph 4 of A-7 it has been clarified that appointments to selection grade in pursuance of the Ministry of Finance's O.M. dated 10.1.77 would not result in the placement of the officers in different grades and their interse seniority in the ordinary grade for the purpose of regular promotion to the next higher grade would remain unaffected and that such interse seniority would be the sole criterion for regular promotions. Even in the case of officers who were not found fit for appointment to the selection grade, their seniority in the ordinary grade and eligibility for promotion to the next higher grade i.e. other than selection grade would not be affected thereby and their suitability for such promotion should be determined afresh by the DPC while dealing with such promotion. Thus from amongst the eligible candidates only so many as not to exceed 20% of the total number of posts in the ordinary grade would be placed in the selection grade on the basis of seniority subject to rejection of unfit. The applicant has no case that on the basis of his seniority he came within the 20% ceiling. As mentioned earlier, the applicant has not been able to show that the condition regarding the ceiling of 20% has been waived. In our view, therefore, the respondents were right in holding the view that though the applicant became eligible for grant of selection grade in the cadre of Auditor on his crossing 3/4th of the span of ordinary time scale of Auditor, in view of his seniority in the cadre of Auditor his turn had not come for granting selection grade in the cadre of Auditor.

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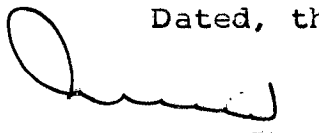
10. Once the basic claim of the applicant cannot be entertained, it follows that the applicant's claim for consequential promotion to the post of Supervisor by virtue of deemed seniority cannot also be accepted. His further promotion to the post of Supervisor would depend upon his seniority position on the basis of his regular service in the cadre of Senior Accountant subject to fulfilment of the criteria mentioned in the relevant Recruitment Rules. Since there can be no improvement in that seniority position on the strength of this O.A., the finding in the impugned order that the applicant did not come in the zone of consideration for promotion to the post of Supervisor also cannot be faulted. The instructions in Paragraph 4 of A-7, as seen earlier, emphasises the over riding importance of interse seniority in the ordinary grade for regular promotion irrespective of placement in selection grade. Indian Audit and Accounts Department Supervisory(Accounts) Recruitment Rules, 1986 (A-5) also lays down the criteria like length of service, passing of departmental examination, pay scale etc. for purpose of promotion to the post of Supervisor from amongst Senior Accountants or Accountants. We are in agreement with the respondents that having regard to the seniority position of the applicant in the cadre of Senior Accountant, ^{he} would not come within the zone of consideration for promotion to the post of Supervisor. It is not the case of the applicant that any of his juniors has been given the promotion to the post of Supervisor, superseding his claim. We also agree that there is no reservation of posts for ex-serviceman for the purpose of promotion. Reservation is prescribed only for

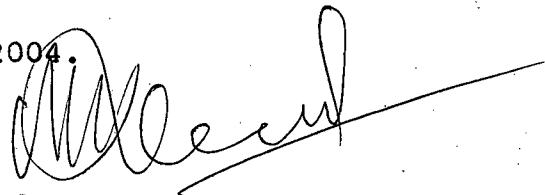
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direct recruitment. The applicant's status as an ex-serviceman having been considered when he was appointed as Auditor, no privilege in the matter of further placements can be claimed unless specifically sanctioned.

11. In view of the facts and circumstances discussed above, we find that there is no merit in the O.A. and the O.A. is liable to be dismissed. Accordingly we dismiss the O.A. leaving the parties to bear their respective costs.

Dated, the 19th January, 2004.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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