

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 179 OF 2013

Wednesday, this the 18th day of December, 2013

CORAM:

**HON'BLE MR.JUSTICE A.K.BASHEER, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

S.Babu Narayanan
Deputy Accountant General
Residing at V.H 382, Kailas, East Pattam
Thiruvananthapuram – 695 004.

... **Applicant**

(By Advocate Mr.C.Rajendran)

versus

1. Union of India represented by
Secretary to Ministry of Finance
New Delhi – 110 001
2. The Comptroller and Auditor General of India
10 Bahadur Shah Zafar Marg
Indraprastha Head Post Office
New Delhi – 110 002
3. The Principal Accountant General (A&E), Kerala
Thiruvananthapuram – 695 001
4. The Secretary
Assistant Comptroller and Auditor General
Office of the Assistant Comptroller and Auditor General
New Delhi – 110 002
5. The Secretary
Union Public Service Commission
Shahjahan Road
New Delhi – 110 011

... **Respondents**

(By Advocate Mr.Millu Dandapani, ACGSC (R-1)
Advocate Mr.V.V.Asokan (R2-4)
Advocate Mr.Thomas Mathew Nellimoottil (R-5))

The application having been heard on 18.12.2013, the Tribunal on the same day
delivered the following:

ORDER

HON'BLE MR.JUSTICE A.K.BASHEER, JUDICIAL MEMBER

Applicant retired from service on February 28, 2007 while working as
Deputy Accountant General in the Indian Audit and Accounts Service (IA & AS)



to which he was promoted on September 17, 2002. According to the applicant, he ought to have been promoted to the Indian Audit and Accounts Service at least in the year 2000. He contends that the delay of about two years in granting him promotion has caused irreparable prejudice and monetary loss to him. He therefore prays for issue of a direction to the respondents to give him notional promotion to Indian Audit and Accounts Service "when he became eligible". He further prays that the respondents be directed to grant him all consequential benefits and disburse the arrears of salary and other benefits to him.

2. Applicant joined the service as Upper Division Clerk in the Office of the Accountant General, Kerala in May, 1967. He passed the Subordinate Accounts Service Examination in 1972. Later he was promoted to the post of Assistant Audit Officer in March, 1984 and as Audit Officer in March, 1992. Still later, in April, 1995 he was promoted to the post of Senior Audit Officer. As has been mentioned earlier he was promoted to the Indian Audit and Accounts Service on September 17, 2002 in the Junior Time Scale (All India Service) on probation. At the time of his retirement in February, 2007, applicant was working as Deputy Accountant General in the Senior Time Scale. The contention of the applicant is that his promotion to Indian Audit and Accounts Service was delayed because of the inaction on the part of the respondents and therefore he is entitled to get his promotion ante dated by at least two years. The case of the applicant is that he became eligible for promotion against one of the several vacancies that were available for the year 1999. But the respondents delayed the process without any justifiable or valid reasons. He contends that steps were initiated by the respondents for filling up the vacancies for the year 1999 only in October, 2001 and ultimately promotion was effected in July, 2002.

3. In the written statement filed on behalf of respondent Nos.2 to 4 it is pointed out that the claim made by the applicant to "ante date" his promotion is hopelessly barred by limitation. It is contended by the respondents that applicant was considered for promotion to Junior Time scale in Indian Audit and Accounts Service against vacancies for the year 1999 as per All India Combined Eligibility list of Senior Audit Officers / of Audit Officers as on July 1, 1999 in terms of the provisions contained in the Indian Audit and Accounts Service (Recruitment) Rules, 1983. While conceding that the All India Combined Eligibility List has to be prepared as on 1st July of every year to which the vacancies pertains, it is contended by the respondents that the delay to start the process for promotion for the relevant year occurred due to back log of promotions of earlier years. In this context it is pointed out that the proposal for promotion of the eligible candidates for the year 1998 was submitted to the Union Public Service Commission in October, 2000 and the meeting of the Departmental Promotion Committee was held in July, 2001. Ultimately promotion orders pertaining to the year 1998 were issued in September, 2001. Thus the entire process of promotion for the year 1998 took one year to complete. The respondents contend that even before the process of promotion for the year 1998 was completed in September, 2001, the respondents had started the process for the year 1999, in March 2001 itself and the proposal was submitted to the Union Public Service Commission on November 19, 2001. Since the Commission is the authority to constitute the Departmental Promotion Committee. The Committee at its meeting held on May 23, 2002 approved the panel of promotees and Presidential sanction for the panel was received on August 22, 2003. Thereafter the applicant and other eligible candidates were promoted on September 19, 2002. In short, it is

contended by the respondents that there was no willful delay or laches on their part in completing the process of promotion.

4. We have carefully perused the entire materials available on record and heard the learned counsel on both sides at length.

5. The respondents have given cogent reasons for the delay of about two years that has occurred in effecting promotion of the applicant and other eligible officers against the vacancies of the year 1999. It is significant to note that the applicant has not controverted or challenged the veracity of the explanations offered by the respondents in this regard. It has been stated by the respondents that the delay, if any, occurred because of the backlog of promotions pertaining to the previous years. It is also pointed out by them that some delay occurred on the part of Union Public Service Commission in constituting the Departmental Promotion Committee. The Ministry of Finance also took some time in completing the process. Having carefully considered the contentions raised by the respondents we are satisfied that there was no willful or deliberate laches on the part of the respondents in completing the promotion process. The administrative and procedural delay that has ofcourse occurred could have been avoided. But in the peculiar facts and circumstances of the case, we are not inclined to hold that there was any willful laches on the part of the respondents in granting promotion to the applicant.

6. There is yet another aspect of the matter. Applicant was admittedly promoted to the Indian Audit and Accounts Service in September 2002. He retired from service on superannuation in February, 2007. However,

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applicant had not raised any demur or protest against the alleged delay or laches on the part of the respondents in completing the process of promotion, while he was in service. If in fact the respondents had willfully refused to complete the process of promotion in 2000-2001 itself, nothing prevented the applicant from seeking his legal remedy at that time. It is significant to note that he continued in service for nearly five years after his promotion. Still worse, he did not choose to seek any legal remedies for more than six years even after his retirement. In our view there is considerable force in the contention raised by the respondents that the applicant is guilty of delay and laches. In that view of the matter also, we are not inclined to grant any relief to the applicant.

7. Original application fails and it is accordingly **dismissed**. No costs.

Dated, the 18th December, 2013.



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE A.K.BASHEER
JUDICIAL MEMBER

vs