

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
CIRCUIT BENCH : LUCKNOW

Registration O.A.NO. 229 of 1990(L)

Yashpal Gulati

Applicant

Vs.

Union of India & Others....

Respondents

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

Hon'ble Mr. A.B. Gorthi, Member(A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant by virtue of his seniority claims promotion to the post of Assistant Officer grade-I. was not promoted, and the Controller General of Defence Account communicated him through the Joint Controller of Defence Accounts that his requests for promotion to the said post has been examined and the same will be considered only after the outcome of the disciplinary proceedings against the applicant. The applicant started his service career as Auditor having been so appointed by the Controller of Defence Accounts, in the year 1965. Because of certain bifurcation and change in the department the respondent no.3 is admittedly now the appointing authority of the applicant on the post which has now been upgraded and designated as office of J.C.D.A. I/C PAO (ORs) A.M.C., Lucknow. The applicant was promoted as Section Officer(A) in the year 1976 and was confirmed in the year 1979. He was sent on deputation in the year 1980, where he was relieved in the year 1984. Subsequently a criteria for promotions was laid down on 5.12.1987. The applicant was though in the zone of consideration but he was not promoted as some disciplinary enquiry was pending against him, which according to the respondents may not conclude very soon.

2. The respondents in their written statement have stated that the applicant's case was also considered by the Promotion Committee. But in this case after consideration a 'Sealed Cover' procedure was ^{ad-} opted, and the same was kept in the Sealed Cover. There is no legal sanctity to the 'Sealed Cover' procedure as if a person is entitle is entitled to be promoted obviously the promotion cannot be refused to him merely on the ground that the disciplinary proceeding is pending against him. Obviously the disciplinary proceeding results in punishment. The matter can be considered even thereafter may be that he has an occupation of the promoted post. The procedure adopted in this case is not waranted by law and accordingly the respondents are directed to open the 'Sealed Cover' within 1 weeks from the date of the communication of this order, and in case the applicant's name has been recommended by the Departmental Promotional Committee, he may be promoted forthwith. In case obviously disciplinary committee comes to the conclusion that he deserves punishment obviously the law will followed in course. No order as to costs.

Janardhan

MEMBER (A)

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VICE-Chairman.

9th December, 1991, Lucknow.

(sph)