

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR  
O.A.No.887/92 Dt. of order: 05-7-1994

Hari Shanker : Applicant

Vs.

Union of India & Ors. : Respondents

None present for the applicant

Mr. N.K.Jain : Counsel for respondents

CORAM:

Hon'ble Mr. Justice D.L.Mehta, Vice Chairman

Hon'ble Mr.C.P.Sharma, Member(Adm.)

MR HON'BLE MR.C.P.SHARMA, MEMBER(ADM.).

Applicant Hari Shanker has filed this application under Sec.19 of the Administrative Tribunals Act, 1985, praying that the order Anxx.A-1 dated 7.1.92 by which the applicant was informed that his representation against promotion of Shri Nathulal Kuldeep had been rejected, may be quashed. He has further prayed that the respondents may be directed to promote the applicant from 24.5.91, the date from which his junior Shri Nathulal Kuldeep was promoted as Income Tax Inspector, with all consequential benefits.

2. The applicant's case is that he was appointed as U.D.C. in the Income Tax Department, vide order dated 14.2.87, was promoted as Tax Assistant on 31.10.86, promoted as Head Clerk on 17.1.91 and was promoted as Inspector on 13.1.92. Promotions to the post of Inspectors are made from amongst Supervisors, Head Clerks, Tax Assistants, Stenographers, etc. as per the amended rules of 1986 in accordance with a particular formula. A seniority list of U.D.Cs dated 26.9.91 (Anxx.A-3) showed that the applicant's name was at Sl.No.23 whereas that of respondent No.4 namely Shri Nathulal Kuldeep was at Sl.No.24. Respondent No.4 was promoted as Inspector vide order dated 24.5.91, Thus the respondent No.4, who was junior to the applicant in the aforesaid seniority list was granted promotion as Inspector before it was granted to the applicant. His representation against the grant of promotion to his junior ignoring his claim was rejected by communication Anxx.A-1 dated 7.1.92.

3. The respondents in their reply have stated that the seniority list dated 26.9.91 was a provisional list against which representations were invited. This was a seniority list of U.D.Cs. The respondent No.4 was promoted to the grade of Tax Assistant on 26.1.83 whereas the applicant had been promoted as Tax Assistant on 31.10.86. Thus in the grade of Tax Assistant respondent No.4 was senior to the applicant and therefore he was granted promotion before it was granted to the applicant. The promotions were granted in accordance with the letter dated 12.7.85 issued by the Central Board of Direct Taxes (Annx.R-1).

4. None was present on behalf of the applicant. We have heard the learned counsel for the respondents and have also perused the records including the record of the relevant DPC which was produced before us during the hearing.

5. At the relevant time when the DPC for promotion to the post of Inspectors met, both the applicant and the respondent No.4 were functioning as Tax Assistant. Respondent No.4 was senior to the applicant as he had been appointed as a Tax Assistant on an earlier date. Therefore, when the question of promotion to the post of Inspector came up, respondent No.4 naturally had a prior claim. The seniority list presented by the applicant (Annx.A-3) is a provisional seniority list of U.D.Cs. What we are concerned is the seniority of the applicant and respondent No.4 which is a higher post. As Tax Assistant, The respondent No.4 is senior to the applicant as discussed above. In the circumstances, grant of promotion to respondent No.4 vide order dated 24.5.91 cannot be faulted. The respondents in their communication Annx.A-1 dated 7.1.92 have while dealing with the applicant's representation, explained to him that the respondent No.4 was granted promotion earlier because according to the seniority list of the Tax Assistants as on 1.1.90, the respondent No.4 was senior to the applicant.

6. Since we do not find any merit in this application, it is dismissed with no order as to costs.

(O.P.Sharma)  
Member(A).

(D.L.Mehta)  
Vice Chairman.