

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO. 638 of 1989

Date of Order: 7.11.1989

P.Babu Rao

..Applicant

Versus

The Accountant General (Audit-I)
Andhra Pradesh, Hyderabad, and
2 others

..Respondents

For Applicant:

Mr.Dakshina Murthy *[Signature]*

For Respondents:

Mr.G.Parameshwara Rao, Standing
.. Counsel for the Department

C O R A M:

HON'BLE SHRI B.N.JAYASIMHA: VICE CHAIRMAN

HON'BLE SHRI J.N.MURTHY: MEMBER (JUDICIAL)

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(Judgment delivered by Shri B.N.Jayasimha, Vice Chairman)

1. Aggrieved by the order dated 17/18-1-1989, issued by the Accountant General (AUDIT-I), A.P.Hyderabad - respondent no.1, denying promotion to the applicant alongwith his juniors on 1-3-1984, the applicant has filed this application.

2. The applicant says that after joining the Department as UDC on 2-3-1956, he was promoted as Section Officer in June, 1973 on qualifying the Departmental SAS Examination and later confirmed in the said post with effect from 1-5-83. The organisational set-up of the Indian Audit and Accounts Department was restructured with effect from 1-3-1984 and the Audit and Accounts Departments were separated. The applicant gave preference for Audit and he was allotted to the office of the 1st respondent on 1-3-1984. About 300 sections officers from the erstwhile combined office, were promoted as Assistant Audit Officers in the new offices of the 1st respondent,

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including juniors to the applicant. Again on 7-3-1984, 33 Section Officers were promoted as Assistant Audit Officers and this list also included some of the Juniors to the Applicant. Subsequently, the applicant was promoted as Assistant Audit Officer vide Office Order No.66, dated 23-7-1984. The applicant represented for the rectification of the error and to restore his seniority with effect from 1-3-1984. He was informed that according to the screening procedure, 'The screening committee for selection of persons in the combined Audit and Accounts Office for the audit cadres will be the existing notified departmental promotion committees for the corresponding posts and all existing orders therefore will apply informing the screening committees for selection. Similarly, in the separated Audit Offices, Screening Committees will be formed for placement of persons against the higher scale posts (Rs.425-800, Rs.650-1040). The Screening Committees in the combined Audit and Accounts Offices besides selecting persons from among the applicants for transfer to the Audit Offices will also decide on their placement against the higher scale posts as for separated Audit Offices.'

3. The applicant states that he was awarded a punishment by an order dated 21-4-1982, according to which, while reverting him to substantive post for a period of one year from 1st May, 1982, it was stated that this period will operate to postpone future increments when he is restored to the higher post of Section Officer. It was further stated that on restoration, he will regain his original seniority in the Section Officers' grade. Accordingly, his original seniority was restored by an office order dated 27-4-1983. The applicant states that once the punishment is suffered and the original seniority is restored, there is no bar for future promotion. He,

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therefore, contends that he should be promoted on the basis of the seniority and any deficiency in the quantum of service in the erstwhile office, cannot be carried forward to the new office.

4. Before admission of this case, we had issued notice before admission to the respondents as the Learned Standing Counsel for the respondents had contended that the application is barred by limitation.

5. In reply, the respondents say that the case of the applicant for promotion to the higher post of Assistant Audit Officer with effect from 1-3-1984 was considered by the Screening Committee which met on 8th, 9th and 10th of February, 1984. He was not placed in the higher category on 1-3-1984 when about 193 juniors to the applicant were promoted. The placement of Section Officers into the higher category of Assistant Audit Officers is based on Seniority-cum-Fitness determined by the Screening Committee(DPC). Apart from the above DPC, the DPC met on another date i.e. on 5-3-1984 had also not considered him fit for promotion though 33 Sections Officers, juniors to the applicant were considered and promoted. The applicant did not make any grievance. The applicant submitted a representation/seeking promotion along-
on 2-3-1984
with his juniors with effect from 1-3-1984. This representation was rejected by Order dated 9-5-1984. Subsequently, the applicant submitted a representation dated 23-7-1984 i.e. after his promotion, seeking favourable orders for restoring justice in fixing his seniority at the appropriate position above his juniors in the Asst. Audit Officer's cadre. His representation for restoration of seniority was rejected by a memo dated 22-10-1984. On 30-4-1987, the applicant

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again submitted a representation requesting the authorities for favourable orders in fixing his seniority in the list of Asst. Audit Officers at the appropriate place with effect from 1-3-1984. The grievance mentioned in this representation is essentially the same as the one represented earlier on 23-8-1984. No reply was therefore given to him on this representation. The applicant once again made a representation dated 11-5-1988 to the Comptroller and Auditor General of India, requesting the authorities for the early issue of necessary orders restoring his seniority at the appropriate place above his juniors in the Asst. Audit Officer cadre with effect from 1-3-1984. This representation was ~~was~~ rejected by an order dated 17/18/1-1989. The respondents contend that except by his representation dated 2-3-1984, he had not represented for considering him for promotion to the cadre of Asst. Audit Officer with effect from 1-3-1984 when his juniors were promoted. This representation was rejected on 9-5-1984 itself. The applicant having not agitated this matter further, the decision communicated to him has become final. For these reasons the respondents oppose this application.

6. We have heard Shri Dakshina Murthy, learned counsel for the applicant and Shri C. Parameshwar Rao, Standing counsel for the respondents.

7. The first point for consideration is whether the application is time-barred in so far as his prayer for promotion is concerned. It is seen from the narration of the facts given in the counter, that the applicant had not made any representation to the department after it was rejected on 9-5-1984, on this issue, except the one which he made to the Comptroller ~~of~~ and Auditor ~~x~~ General of

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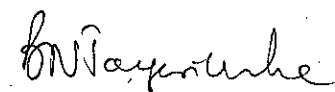
India on 11-5-1988. It is only in this representation that he once again raised the issue relating to his promotion after fixing seniority. The various dates relevant for the purpose of considering the case of the applicant are as follows:--


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|-----|------------|----|--|
| 1. | 2-3-1986 | .. | Date of entry into service |
| 2. | 1971 | .. | Year of passing SAS Exam |
| 3. | 2-1984 | .. | DPC held for promotion as AAO. The DPC considered and not promoted the applicant with effect from 1-3-1984. |
| 4. | 5-3-1984 | .. | The DPC held for promotion to AAO but not promoted the applicant after consideration |
| 5. | 19-7-1984 | .. | The DPC held and promoted the applicant as AAO |
| 6. | 2-3-1984 | .. | Representation for of the applicant for promotion along with his juniors with effect from 1-3-1984. |
| 7. | 9-6-1984 | .. | Representation of the applicant rejected |
| 8. | 23-8-1984 | .. | Representation for restoration of his seniority over his juniors promoted w.e.f. 1-3-1984 |
| 9. | 22-10-1984 | .. | Representation rejected by the Accountant General |
| 10. | 30-4-1987 | .. | Representation to Accountant General for restoring his seniority (No reply given) |
| 11. | 11-5-1988 | .. | Representation to Comptroller and Auditor General for restoration of Seniority |
| 12. | 17/18-1-89 | .. | Representation rejected |
| 13. | 23-8-1989 | .. | Application filed before CAT, Hyderabad. |

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From the above, it is seen that the representation of the applicant was rejected on 22-10-1984 and the applicant has filed this application only on 23-8-1989. The application is clearly time barred. It is well settled that repeated representations would not save the limitation. The application is, therefore, liable to be dismissed on this ground. It is also seen that the applicant was considered by the DPC met on Nil-2-1984 and 5-3-1984 ^{and after consideration he was not found fit for promotion} and not promoted. The DPC which met on 19-7-84, recommended his promotion. Inasmuch as the DPC has considered the applicant and found him not fit for promotion and as no grounds have been urged by the applicant as to why the DPC proceedings are to be held bad, we see no reason to interfere in the matter, even on merit. In these circumstances, we do not find any merit in this case and therefore it is dismissed. No costs.


(B.N. JAYASIMHA)
Vice Chairman


(J.N. MURTHY)
Member (J)

Dt. 7th November, 1989.


SQH*


DEPUTY REGISTRAR (J.)
10/11/89

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To

1. The Accountant General (Audit-I), Andhra Pradesh, Hyderabad-500463.
2. The Accountant General (A&E) A.P. Hyderabad-500463.
3. The Comptroller & Auditor General of India, 10, Bahadur Shah Jafar Marg, New Delhi. 110002.
4. One copy to Mr. M. Dakshina Murthy, Advocate, 10-1-18/25, Shyamnagar, Hyderabad-500004.
5. One copy to Mr. P. Ramakrishna Raju, Sr. CGSC, CAT, Hyderabad.
6. One spare copy.


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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH

HON'BLE DR.B.N.JAYASIMHA:V.C.

AND

HON'BLE MR.D.SURYARAO:MEMBER(J)

AND

HON'BLE MR.D.K.CHAKRAVORTY:M(AD.)

AND

HON'BLE MR.J.NARASIMHAMURTHY:M(J)

DATED :

7/11/88

ORDER/JUDGMENT

T.A.No. / (U.P.No. /

CC.A. No. 638 / 88

~~Allowed~~

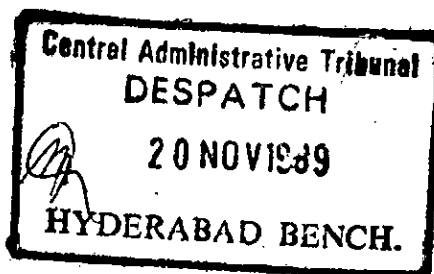
Dismissed

Disposed of

Ordered

No order as to costs.

PSR



10/11/88