

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 16.7.2001

OA 11/95

S.P. Gupta, Retired Income Tax Officer, L-30, Income Tax Colony, Durgapura, Jaipur.

... Applicant

Versus

1. Union of India through Secretary, Ministry of Finance (Deptt. of Revenue), Central Secretariat, New Delhi.
2. Chairman, Central Board of Direct Taxes, North Block, Central Secretariat, New Delhi.

... Respondents

CORAM:

HON'BLE MR.A.K.MISHRA, JUDICIAL MEMBER

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.K.R.Guglani

For the Respondents

... Mr.Gaurav Jain, proxy counsel  
for Mr.N.K. Jain

O R D E R

PER HON'BLE MR.A.K.MISHRA, JUDICIAL MEMBER

The applicant had filed this OA with the prayer that the record of DPC for the year 1993 be summoned and the impugned order (Ann.A/1) be struck down. The applicant having retired with meritorious record be given consequential benefit of promotion at par with his junior Shri D.R.Jain, ITO, with effect from the year 1991 with arrears of pay alongwith interest.

2. Notice of the OA was given to the respondents, who have filed their reply.

*for*

3. We have heard the learned counsel for the parties and have gone through the case file and also the photo-copies of DPC proceedings relating to the recommendations of the candidates within the zone of consideration and the select list.

4. It is contended by the applicant that the candidature of the applicant was not considered by the DPC convened in the year 1991 for recommending the names of Income Tax Officers for promotion to the post of Assistant Commissioner of Income Tax (Junior Scale). It is also contended by the applicant that number of applicant's junior have been promoted ignoring the candidature of the applicant, whose services were all through meritorious. The applicant retired honourably without any blemish record.

5. On the other hand, the respondents have contended that candidature of the applicant was duly considered by the DPC held in the month of October, 1991 and by subsequent DPCs held in December, 1991 and June, 1993. However, he missed his promotion due to the grading which <sup>was</sup> given to him as per his ACRs. It is also contended by the respondents that candidates who were found 'Outstanding' were named at the top of the select list. Next to them are the names of those candidates who were graded 'Very Good'. The chance of recommending the names of candidates securing grade 'Good' would be available only when 'Outstanding' and 'Very Good' candidates are not available in sufficient number so as to fill in the notified vacancies. Since the applicant was graded as 'Good' officer, his name did not find place in the select list. The contention of the applicant that his

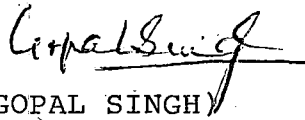
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candidature was ignored, is factually incorrect and the allegation has no basis.

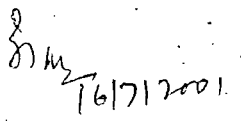
6. On consideration of the facts of the case, the only thing that we have to find out is whether the candidature of the applicant was considered by the DPC. It is undisputed that the gradings are given by the DPC on the basis of ACRs of the candidates for the relevant years. From the minutes of the DPC, held in the month of October, 1991, we find that the name of the applicant was mentioned at No.108 in the list of officers in consideration zone. Total number of officers for consideration were 372 and the candidates securing 'Outstanding' grade and 'Very Good' grade were incorporated in the select list by the DPC pertaining to the year 1991. The applicant, as per his ACR, was rated as 'Good' officer but many of his juniors were graded as 'Very Good' and, therefore, all the candidates securing 'Very Good' grading were included in the select list. Since the requisite number of officers were available having the grade of 'Outstanding' and 'Very Good' for filling up the promotional post, therefore, the officers rated as 'Good' were left out. The applicant is also one of them. Therefore, the contention of the applicant that many of his juniors were promoted and he was left out from consideration is without any basis. A candidate has a right to be considered. This right of the applicant has not been violated. For a selection post when merit and seniority is the criteria then merit comes first and seniority comes second. In view of this, the contention of the applicant that he was <sup>not</sup> at all considered has no legs to stand. In our opinion, the OA bears no merit and deserves to be dismissed.

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7. The OA is, therefore, dismissed. Parties are left to bear their own costs.

  
(GOPAL SINGH)

MEMBER (A)

  
(A.K.MISHRA)

MEMBER (J)