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CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH
JABALPUR

Original Application No. 975 of 2005

Jabalpur, this the 12th day of September, 2006

Hon'ble Dr. G.C. Srivastava, Vice Chairman
Hon'ble Shri A.K. Gaur, Judicial Member

Munni Lal, S/o. Late Shri Daya Ram,
Age - 61 years, Retired Sr. Accounts
Officer, (O/o. The Accountant General
(A&E), Madhya Pradesh, Gwalior),
586 - Suresh Nagar, R.K. Puri,
Gwalior (MP) - 474 011.

Applicant

(By Advocate – Applicant in person)

V E R S U S

1. Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.
2. Accountant General (A&E)-I, Madhya Pradesh, Gwalior.

Respondents

(By Advocate – Shri Madhukar Rao)

O R D E R

By A.K. Gaur, Judicial Member –

By means of this Original Application the applicant has sought the following main relief:

- “1. The applicant seeks directions of the Hon'ble Tribunal to the respondents to promote the applicant notionally to the post of Accounts Officer from 28.8.1986 the date on which Shri R.D. Jatav was promoted,
2. The respondents be directed to fix the seniority of the applicant in the All India Seniority list above the name of Shri Jatav and be promoted notionally to IA & AS from 17.9.1997, the date on which the applicant's second junior Shri V.P. Sharma was promoted to IA & AS and pensionary benefits be revised accordingly.”

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2. In order to resolve the question in controversy, it is necessary to state the relevant facts:

2.1 The applicant had filed OA No. 60 of 2003 before this Tribunal which was disposed of by the order dated 2.7.2003. The operative portion of the order passed by the Tribunal is as under:

“7. In view of the discussion made above, we quash the order impugned in the present OA, dated 22.1.2003 and direct the respondents to promote the applicant to the post of Account Officer w.e.f. the date the junior to the applicant was promoted. The compliance of this order be made within a period of three months from the date of communication of this order. It is, however, provided that the applicant shall not be given any back wages and the applicant would be given only notional promotion.”

2.2 The Tribunal's order was challenged in the Hon'ble High Court which was dismissed by the Hon'ble High Court on 22.10.2003 and further it was challenged in the Hon'ble Supreme Court which was also dismissed on 19.3.2004 (Annexure A-3 and A-4 respectively). In compliance of the order passed by this Tribunal the applicant has been promoted notionally as Accounts Officer by the order dated 14.7.2004 w.e.f. 5.10.1987 but his name was placed below to his next junior Shri R.D. Jatav who was promoted w.e.f. 28.8.1986. It is alleged on behalf of the applicant that from the gradation list it is evident that the applicant was senior to Shri Jatav. The name of Shri R.D. Jatav finds place at serial NO. 17, whereas the name of the applicant is at serial No. 14 in the gradation list of Section Officer the feeder cadre (Annexure A-5). Having aggrieved by the aforesaid inaction of the respondents the applicant made representations dated 13.1.2005 and 11.3.2005 (Annexure A-8 and A-9 respectively) and prayed to the respondents to promote him on the post of Accounts Officers from the date his junior Shri R.D. Jatav was promoted and further to fix his seniority for his promotion to Group-A cadre. The sole grievance of the applicant is that the respondents have not given reasons why he was not promoted to the post of Accounts Officer with reference to his



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junior Shri R.D Jatav and why he was not in the zone of consideration for promotion to IA & AS. Hence, this Original Application is filed.

3. In reply filed by the respondents it is clearly mentioned that in compliance of the order and direction of this Tribunal the respondents have convened a review D.P.C as on 5.6.1987. The D.P.C. accordingly considered his case for promotion to the grade of Accounts Officer for the panel year 1987 and after considering the facts and circumstances of the case the DPC did not adjudge the applicant fit. The applicant was informed accordingly vide memo dated 22.1.2003. It is clearly observed in the letter dated 22.1.2003 that the committee has considered his case for promotion to the grade of Accounts Officer for the panel year 1987, "but did not adjudge him fit". The applicant thereafter filed OA No. 60 of 2003 before this Tribunal challenging the order dated 22.1.2003 (Annexure R-1) and sought quashing of the same with certain other relief. This Tribunal vide the order dated 2.7.2003 quashed the order dated 22.1.2003 and directed the respondents to promote the applicant to the post of Accounts Officer with effect from the date his junior was promoted. In compliance of this order the applicant was promoted to the post of Accounts Officer with effect from 5.10.1987 and to the post of Senior Accounts Officer with effect from 1.9.1992 i.e. from the date of promotion of his juniors Shri B.K. Saxena and N.S. Mahobia in Assistant Accounts Officer and Accounts Officer/Senior Accounts Officer. The applicant has again filed this Original Application praying to promote him notionally to the post of Accounts Officer from 28.8.1986 i.e. the date on which Shri R.D. Jatav was promoted and also claimed the benefit of promotion at par with his second junior Shri V.P. Sharma who was promoted to IA & AS cadre. The applicant has also prayed for grant of pensionary benefits accordingly. The respondents have denied the claim of the applicant for promotion to the Accounts Officer cadre with effect from 28.8.1986 as the Tribunal has directed the respondent No. 2 to convene a review DPC

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as on 5.6.1987. The review DPC as on 5.6.1987 was convened and applicant's seniority in Accounts Officer's grade was fixed with reference to his junior Shri N.S. Mahobia who ^{was} also promoted on the recommendation of the DPC which met on 5.6.1987. Hence, this Original Application is liable to be dismissed.

4. Having heard the applicant in person and Shri Madhukar Rao, learned counsel appearing for the respondents, we are of the considered view that the case of the applicant for his promotion to IA & AS cadre was duly considered by the Comptroller and Auditor General of India i.e. respondent No. 1 and it has been found that the applicant was not in the zone of consideration for promotion to IA & AS during the year 1993 and 1996. The plea of the applicant for his promotion in IA & AS cadre with effect from 17.9.1997 i.e. the date of promotion of Shri V.P. Sharma junior to the applicant is also not tenable on the ground that the applicant was promoted to the post of Accounts Officer following the recommendations of the DPC which met on 5.6.1987 and he was awarded seniority from the date of promotion of his junior i.e. Shri N.S. Mahobia in 1987. It is also clear that Shri R.D. Jatav or Shri N.S. Mahobia were never promoted to the IA & AS cadre. The claim of the applicant for promotion to the Accounts Officer cadre from the date Shri R.D. Jatav was promoted i.e. 28.8.1986 is not sustainable in law in as much as the Tribunal categorically observed in the last paragraph of the order dated 16.8.2002 that the respondent No. 2 shall convene a review DPC as on 5.6.1987, whereas Shri R.D. Jatav was already promoted as Accounts Officer on 28.8.1986 i.e. much prior to the date of DPC on 5.6.1987. From these facts it is abundantly clear that Shri R.D. Jatav was promoted in pursuance of the earlier DPC and in this view of the matter by no stretch of imagination the applicant can claim that he should be given promotion to the post of Accounts Officer cadre from the date of promotion of Shri R.D. Jatav i.e. with effect from 28.8.1986. No other point has been raised or pressed by the applicant.

5. In view of the aforesaid position we find no merits in this Original Application and it is accordingly, dismissed. No costs.

A.K. Gaur
(A.K. Gaur)
Judicial Member

Govind
(Dr. G.C. Srivastava)
Vice Chairman

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पृष्ठांकन सं. ओ/ला..... जबलपुर, दि.....
परिविवाहित अधिकारी हितः—

- (1) सुरेश, अद्य ज्यापालय खार पुस्तकालय, जबलपुर
- (2) आदेश की/श्रीमती/स्त्री के वारंसल
- (3) विवाही श्री/श्रीमती/स्त्री के काउंसल
- (4) बालाजी, शोभा, जबलपुर व्यापारी

सूत्राना एवं अवश्यक उपायाद्वयी हैं

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उप संस्कार

Munshi Lal
Boolewad
M. Rao Adv
Gawaliar

28/MS
on 13/3/1982