

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH, JABALPUR

O.A No. 60 of 2003

Jabalpur, this the 02 nd July' 2003

Hon'ble Mr. D.C.Verma, Vice Chairman (J)
Hon'ble Mr. A.K.Bhatt, Member (A)

Munnilal, son of late Shri Daya Ram, aged about 58
years, Senior Accounts Officer, Office of the
Accountant General (A&E)-II, Madhya Pradesh,
Gwalior. Applicant

(Advocate : Applicant-in-person)

Versus

1. Union of India,
Through Comptroller & Auditor
General of India,
10, Bahadur Shah Zafar Marg,
New Delhi - 110002.
 2. Principal Accountant General,
Office of the Accountant General,
(A&E)-I, Madhya Pradesh, Gwalior. .. Respondents
- (Advocate : Mr.P.Shankaran for Mr.S.C.Sharma)

O R D E R (ORAL)

Per : Hon'ble Mr. D.C.Verma, Vice Chairman (J)

The applicant has claimed promotion to the post of
Account Officer (AO) w.e.f. 1987 after the expiry of
penalty period.

2. The brief fact of the case is that the applicant
was working as Section Officer and was considered by the
DPC for promotion to the post of Assistant Accounts
Officer (AAO) and Accounts Officer (AO). Though the


applicant was granted promotion to the post of AAO, the DPC did not find the applicant fit for promotion to the post of AO. It so happen that a departmental proceedings had earlier started against the applicant wherein a penalty of reduction of pay by two stage in the time scale for a period of one year without cumulative effect was levelled upon the applicant. This order was passed on 27th Feburary 1987. The applicant filed OA No. 839/96. The same was decided by a Division Bench of this Tribunal vide order dated 16-8-2002.

3. Further fact is that the DPC considered the fitness of the applicant for promotion from the post of Section Officer to Assistant Account Officer (AAO) and also as Accounts Officer (AO). The DPC, after consideration found ~~that~~ ^{found} the applicant fit for promotion as AAO, but the applicant was/unfit for promotion to the post of Accounts Officer. The Tribunal, however, while deciding the OA NO. 839/96 noted that correct procedure was not followed by declaring the applicant unsuitable as due to the departmental proceedings pending against the applicant, the findings of the DPC ~~could~~ was not kept in the sealed cover. The Tribunal directed that a review DPC be held as on 5-6-87 for properly considering the case of the applicant and if found fit, to award all consequential benefits including seniority. After the OA was decided, the department conducted a review DPC and vide impugned order dated 22-1-2003, informed the applicant that his case was considered for promotion to the grade of Accounts Officer from the panel of 1987

and did not adjudge him 'fit'. The applicant has challenged this order in this OA.

4. The submission of learned counsel for the respondents is that when the earlier DPC met on 5-6-87, there was no departmental proceedings pending against the applicant as the penalty order had been already passed in February 1987. Consequently, the sealed cover procedure was not followed. After the penalty order was challenged in OA No. 66/88 and the matter was remitted back by Tribunal, final penalty order was passed on 6-6-89, by which it was provided that penalty of reduction of pay by two stages in the time scale for a period of one year was awarded and also provided that during the period of reduction, the applicant will not earn increment of pay, but it will have no effect of postponing his future increments of pay. The submission of the learned counsel for the respondents is that the applicant was promoted as Assistant Accounts Officer (AAO) w.e.f. 22-9-88, but the DPC found the applicant 'unfit' for the promotion to the post of Accounts Officer (AO). So he was not promoted to that post.

5. Applicant in person and counsel for the respondents has been heard. We have also perused the DPC minutes and the ACRs of the applicant. Though we are aware that this Tribunal cannot sit in appeal over DPC, but in the circumstances and facts of the present case, we have examined the minutes of the DPC and ACRs to find out




whether the DPC is based on correct fact. We have noted from the ACPS that the applicant was awarded the following remarks in different years.

YEARS	REMARKS
1980-81 (four months)	Efficient
1982-83	Moderately Well
1983-84	Efficient
1984-85	Efficient
1985-86	Efficient
1986-87	Efficient
From April '86 to July '86	Very able Officer.

6. The minutes of DPC by way of reference refers "After careful consideration of the fact of the case and relevant records of the Officer, it is raised that the applicant is not found fit as AO". As appears from the annual remarks the service record of the applicant was not at all against the applicant to find him 'unfit' for the post of Accounts Officer. The whole matter which weighed before the DPC was with regard to the allegation on which the applicant was imposed a penalty. It was on that account only, the applicant was found 'unfit' to the post of Accounts Officer. During the course of arguments, the learned counsel for the respondents admits that the post of AAO is a promotional post from the post of Section Officer carrying higher responsibility and the post of Accounts Officer is also a post of still higher grade. Submission is that though the applicant was found fit for promotion to the post of AAO, the DPC did not find him fit for the post of Accounts Officer. We are unable to find logic in the light of the minutes of DPC which we have perused. ACPS show that the applicant (except for one year i.e. for the year 1982-83 in which it was remarked "Moderately Well") was for all the years, efficient

Officer. ACRs for the period from April '86 to July '87 states that the applicant was very able officer. Thus, the DPC has not considered the ACRs of the applicant and has recorded the findings of 'unfit' on the basis of extraneous matter which was not relevant before review DPC. Besides it, in our view that could not have been taken into consideration as the applicant was found fit for the post of AAO by the same DPC. Promotion of the applicant as AAO was delayed because of currency of punishment and promotion to AO is also to be delayed due to currency of modified punishment for the same misconduct. The applicant cannot suffer twice for the same misconduct.

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 backwages and the applicant would be given only notional promotion. cost easy.


(A.K. Bhatt)
Member (A)


(D.C. Verma)
Vice Chairman (J)

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10/7/03

- पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
पसिलिधि अर्थे मित:-
(1) सचिव, राज्य न्यायपालिका कार्यालय, जबलपुर
(2) सचिव, न्यायपालिका कार्यालय, जबलपुर
(3) सचिव, न्यायपालिका कार्यालय, जबलपुर
(4) सचिव, न्यायपालिका कार्यालय, जबलपुर

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Munsif, G...
SE Sharma-A-