

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,**  
**JABALPUR**

**Original Application No. 893 of 2003**

*Jabalpur, this the 20<sup>th</sup> day of April, 2005*

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri Madan Mohan, Judicial Member

Veerendra Kumar Dalal, S/o. late B.L. Dalal,  
Aged 51 years, R/o. B-20, Dwarka Puri, Gwalior  
& Govt. service as Section Officer in A.G.,  
Chhattisgarh, Raipur ..... Applicant

(Applicant in person)

**V e r s u s**

1. The Comptroller & Auditor General of India,  
10, Bahadur Shah Jafar Marg, New Delhi.
2. The Accountant General, (A&E)-I,  
M.P., Lekha Bhavan, Gwalior.
3. The Accountant General (A&E)-II,  
M.P., Lekha Bhavan, Gwalior. .... Respondents

(By Advocate – Shri M. Rao)

**O R D E R**

**By Madan Mohan, Judicial Member –**

By filing this Original Application the applicant has claimed the following main reliefs :

- “(i) to issue a direction or an order to promote the applicant from 1.4.1998 to the post of AAO with all consequential benefits,
- (ii) to issue an order against respondents that they should adhere to the existing rules and regulations properly,
- (iii) to issue an order against respondents Nos. 2 & 3 so they must pay attention against the action of State Government's officer concerned as well as against the Departmental officers who are not following the service rules.”



2. The brief facts of the case are that the applicant is rendering his services as Section Officer from August, 2002 in Chhattisgarh Raipur. The applicant was not promoted to the post of Assistant Accounts Officer with effect from 1.4.1998 (the date on which his junior was promoted) on the ground of adverse remark in the CR of the applicant for the years 1995-96 and 1997-98. Certain baseless adverse remarks were written in the CRs of the applicant for the period from 17.7.1995 to 31.3.1996. The communication of the said adverse remarks was made available after three months and rejection of the representation dated 31.12.1997 was finalized after the elapse of 18 months i.e. on 28.6.1999, whereas the relevant rules in the CR do not permit it. An appeal against the rejection of the representation was submitted to the appellate authority on 3.8.1999 but the same was rejected after one year without any reason and speaking order. This malicious action of the respondents had freezed the promotion of the applicant to the post of Assistant Accounts Officer. The representation addressed to C&AG Annexure A-9 was also not sent by the respondent No. 2 and 3 by over looking the rules and criteria. Similarly the CR for the period from 7.11.1997 to 31.3.1998 was also spoiled by the those officers who were indulged in criminal act. The appeal against this order was also rejected without any reasons and speaking order (Annexure A-4). Hence, this Original Application is filed.

3. Heard the applicant in person and the learned counsel for the respondents and also carefully perused the pleadings and records.

4. It is argued on behalf of the applicant that adverse ACR was communicated to him after a lapse of period of 18 months which is against the rules and which shows the malafide intention of the respondents' concerned while there was no basis for adverse remark at all. The administration was well aware about the hindrance action and malpractice adopted by XEN during the period of CR but owing to secret agreement between group officer of Admn.-I and XEN the objection

pointed out earlier about embezzlement of government money was not sent to the headquarters. The applicant further argued that his appeal was rejected after the period of one year which is also against the rules and appellate order is non-speaking and without any reasons. Similarly another CR for the period from 7.11.1997 to 31<sup>st</sup> March, 1998 was also spoiled by those officers who were indulged in criminal act. The facts were over looked by the respondent No. 2 and rejection of the representation was made by violating the relevant rules. The applicant has also drawn our attention towards the annexures filed with his rejoinder. He further argued that the applicant is legally entitled for his promotion with effect from 1.4.1998 on the post of Assistant Accounts Officer with all consequential benefits but the respondents have not accepted his legal and justifiable claim. Hence, this Original Application deserves to be allowed.

5. In reply the learned counsel for the respondents argued that the applicant while posted as DAO-II on deputation with the Government of MP, PWD, NH Division, Seoni earned adverse entries in his annual confidential report for the period from 17.7.1995 to 31.3.1996. His representation against the adverse entries was rejected by the competent authority and his appeal was also rejected and the decision was communicated to the applicant vide letter dated 3.8.2000 (Annexure R-1). The applicant remained on deputation till 31.5.1997 and during this period a number of complaints were received against him. These were made by his fellow employees, officers of the borrowing office and by the district Collector, Seoni. The applicant joined the parent office on 2.6.1997. Thereafter the State Government reported the matter of financial irregularities for which a charge sheet under Rule 14 of the CCS (CCA) Rules, 1965 was issued against the applicant and the enquiry has been completed and final orders are also issued. The learned counsel for the respondents further argued that another charge sheet dated 13.8.1998 was also issued against the applicant under Rule 16(1)(b) of CCS (CCA)

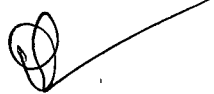


Rules, 1965. A penalty of withholding of his next increment for one year without cumulative effect was imposed on the applicant by the disciplinary authority which was subsequently, moderated to censure by the revisional authority. While working in the parent office the applicant earned adverse entries in his ACR for the period from 7.11.1997 to 17.3.1998 which was duly communicated to him. His appeal was also communicated and rejected by the competent authority vide letter dated 11.5.2004 (Annexure A-4). The applicant has not claimed relief for expunging the adverse CRs in the present OA. He has only sought the relief for his promotion from 1.4.1998 on the post of AAO. For his promotion first he should have challenged the adverse remarks. The contention of the applicant that the respondents have not passed the orders in accordance with rules and law is denied. They have not committed any irregularity or illegality. Hence, this OA deserves to be dismissed.

6. After hearing the applicant in person and the learned counsel for the respondents and also on careful perusal of the pleadings and records, we find that the applicant has sought the relief for issuing a direction to the respondents to promote him from 1.4.1998 to the post of Assistant Accounts Officer with all consequential benefits. He has not challenged for expunction of the adverse remarks given by the respondents against which he has also filed appeals and his both appeals were rejected by the respondents. Apart from it the respondents have argued that two departmental enquiry proceedings were initiated against him by issuing charges sheets under Rule 14 and under Rule 16(1)(b) of the CCS (CCA) Rules, 1965. Under Rule 14 the disciplinary enquiry proceedings are said to be completed and the orders are to be passed by the respondents and in another departmental enquiry proceedings of 16(1)(b) the penalty of withholding of his next increment for one year without cumulative effect was imposed on him but the revisional authority has modified the punishment to censure. Without expunction of the adverse remarks the applicant is not entitled for promotion with effect from 1.4.1998.



7. Considering all the facts and circumstances of the case we are of the considered opinion that the applicant has failed to prove his case and this Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.



(Madan Mohan)  
Judicial Member



(M.P. Singh)  
Vice Chairman

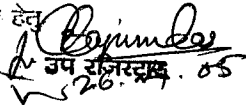
"SA"

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....

पतिलिपि अन्वये धितः—

- (1) सचिव, उच्च न्यायालय दाय एजेन्सिशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल
- (3) प्रत्ययी श्री/श्रीमती/कु.....के काउंसल
- (4) न्यायालय, को.ए.अ., जबलपुर न्यायाधीश

सूचना एवं आवश्यक कार्यवाही हेतु

  
26.05.05

Shri veerendra kumar d. Raip. Shri An. Rao Adve H. C. B. B. B.

Issued  
27/4/05