

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 94 of 2002

Jabalpur, this the 19th day of August, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. A.K. Bhatnagar, Judicial Member

Shri R.P. Choudhary, son of
Shri Dwarka Pd. Choudhary, aged
about 68 years, Retired Upeer
Division Clerk, Central Ordnance
Depot, Jabalpur, R/o H.No.325,
Galgala, Jabalpur.

APPLICANT

(By Advocate - Shri M.K. Sanghi)

VERSUS

1. Union of India, through
its Secretary, Ministry of Defence,
New Delhi.
2. The Commandant ,
Central Ordnance Depot, P.Box No.20,
Jabalpur.
3. Officer-In-Charge,
A.O.C. Records,
Sena Ayudh Corps Abhilekh Karyalaya
Army Ordnance (Corps Record Office)
P.B. No.3, Trimulgherry,
Secundrabad-500 515.

RESPONDENTS

(By Advocate - Shri S.P. Singh)

O R D E R (ORAL)

By M.P. Singh, Vice Chairman

By filing this OA, the applicant has sought the
following main relief :-

"(i) the order dtd. 16.11.2002 (Annexure A-6) may
kindly be quashed being illegal and improper and
the respondents further be directed to consider the
case of the applicant for promotion in view of
the findings thereof kept in a sealed cover as given
by the D.P.C. held in the year December, 1989 and
the respondents also directed to release all
consequential benefits to the applicant."

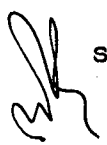
2. The brief facts of the case are that the applicant
was working as UDC under the respondents. He was due for
promotion to the post of Office Superintendent Gr.II in 1989.
A criminal case was filed against him on 17th March 1987 under
Sections 307/34 of I.P.C. Since the criminal case was going
on against the applicant, the respondents considered the
case of the applicant for promotion to the post of Office
Superintendent but the ^{recommendations} in respect of him were kept in a

sealed cover. The applicant was finally acquitted from the criminal case vide order dated 9.3.2000. In the meantime, the applicant retired from service on attaining the age of superannuation on 30.6.93.

2. The contention of the respondents is that though the applicant was approved for promotion as Office Superintendent Gr.II, yet he could not be granted the same due to his involvement in the criminal case and he retired before the final decision of the criminal court. Therefore, he was not eligible for promotion.

3. Heard the learned counsel for both the parties.

4. We have given careful consideration. We find that the applicant who was working as UDC, was considered along with his colleagues, for promotion to the post of Office Superintendent Gr.II in the year 1989 but the recommendation of the DPC was kept in sealed cover. He was finally acquitted from the criminal charge in the year 2000 and he retired on 30.6.1993. As per the rules/instructions issued by the Government, if the recommendation of DPC in respect of Government servant is kept in a sealed cover and a criminal case/disciplinary proceeding is going on at the time of consideration of promotion, promotion is not considered. Only when the government servant is exonerated or after conclusion of the disciplinary proceedings, if the DPC recommends for promotion to the next higher grade, the Government servant is granted promotion with respect of junior on the basis of the recommendation of DPC, although on notional basis and backwages are not normally paid to government servant. However, subsequently the Government have issued instructions that whether to pay arrears of salary or not will depend on facts and circumstances of each case and case will be examined by competent authority in the light of the facts and circumstances of the case. In this case, the applicant has since retired on superannuation. The respondents vide their



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order dated 16.11.2002 (Annexure-A-6) have specifically stated that the applicant was approved for promotion to office Supdt. Gr.II, Thereafter as per rules, he is required to be promoted with effect from the date his junior was promoted to the post of Office Superintendent Gr.II and his pay should be fixed on notional basis.

5. We accordingly directed the respondents to promoted the applicant as Office Superintendent Gr.II on notional basis with effect from the date his junior was promoted. However, no backwages shall be paid to the applicant. All retirement benefits shall be revised and paid to the applicant on the basis of fixation of his pay on notional basis in the next higher grade of office Superintendent Gr.II and after granting him due increments in the grade of Office Superintendent Gr.II The respondents are directed to comply with those directions within a period of 4 months from the date of communication of this order.

6. The OA is accordingly disposed of as above. No costs.

(A.K. Bhatnagar)
Judicial Member

(M.P. Singh)
Vice Chairman

पूरांकन सं ओ/व्हा.....जबलपुर, दि.....
पलिलिपि अगे धित:-

- (1) सतिव, उक्त ब्यवसाय मार एवेरिगजन, जबलपुर
(2) आवेदक श्री/श्रीमती/श्री/.....के काउंसल
(3) प्रत्ययी श्री/श्रीमती/श्री/.....के काउंसल
(4) व्यवसाय सेवाभा, जयपुर मारप्रकीड
सूचना एवं आवश्यक कार्यवाही हेतु

Shri M.K. Singh HC
Shri S.P. Singh HC

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