

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 708/2001

Jabalpur, this the 25th day of June, 2004

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

V.K. Tripathi
Aged about 59 years,
s/o late Sh. G.P. Tripathi,
Accounts Officer, Pay Accounts Office,
(O.R.S.) Corps of Signals,
Jabalpur (Madhya Pradesh) ...Applicant

(By Advocate: Sh. Deepak Panjwani for Sh. Udayan Tiwari)

-versus-

1. Union of India through
Secretary to the Defence,
New Delhi.
2. Controller General of Defence Accounts,
West Block-5, R.K. Puram,
New Delhi. ...Respondents

(By Advocate: Shri P. Shankaran)

O R D E R

By Madan Mohan, Member (Judicial)-

By filing this original Application, the applicant has sought the following main reliefs:

- i) To quash the order dated 6.8.2001 (Annexure A-2).
- ii) By issuance of a writ in the nature of mandamus, the respondent be commanded to constitute a review D.P.C. to consider the case of the petitioner for promotion to the post of Senior Accounts Officer on the same norms as were available for consideration in Feb./March, 2001 and if he is found fit, he be ordered to be promoted, with backwages and with declaration the the same carry advantage to him for all post retiral benefits and the arrears thereof.
2. The brief facts of the case are that the applicant joined the services of the Central Government as an Auditor and posted in the office of the Pay & Accounts Office (O.R.S) Artillery, Mathura w.e.f. 11.5.1964. He was promoted as Section officer w.e.f. 18.7.1977 and as Assistant Accounts officer w.e.f. 1.4.1987. He was further promoted



as Accounts officer w.e.f. 29.8.1997. After this promotion he was posted in the N.C.C. Directorate, Bhopal. According to the rules after serving for three years as Accounts Officer, person becomes entitled to be considered for promotion to the post of Senior Accounts officer. The applicant completed three years of service on 28.8.2000 and accordingly became entitled to be considered for the higher promotion of Senior Accounts officer. The D.P.C. met in Feb./March, 2001 to consider the case of Accounts officers for promotion to the post of Senior Accounts officer. On 16.4.2001, a list was issued on behalf of the respondents promoting Accounts officer to the post of Senior Accounts officer. By this list one Shri Deepak Chatterjee, whose roster no. was 1307 was promoted as Senior Accounts officer whereas the applicant, whose roster no. was 1226, has been denied promotion as his name did not find place in the said list. The applicant is not in a position to produce a list of promotees dated 16.4.2001 because such lists are not supplied to others and are treated as confidential meant only for the department dealing.

2.1 The applicant submitted a representation to the Controller General of Defence Accounts, New Delhi. The Pay Accounts officer (other ranks) Corps Signals of Jabalpur by its letter dated 6.8.2001 informed the applicant that the headquarter i.e. office of the respondent no. 2 has examined the case for promotion of the applicant to the post of Senior Accounts officer Grade and on examination it was found that he was not yet fit for promotion to the said Grade. Since the D.P.C. at its meeting held in Feb./March, 2001 did not find him fit for promotion, he was not promoted. Thus the applicant stood superseded by an order dated 16.4.2001. He was promoted on 29.8.1997 as Accounts officer. During all these period he was never communicated any notice with



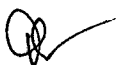
respect to any adverse entry having been made in his C.Rs, He was never given a letter communicating any shortcoming in his work or performance in his duties.

As far as the applicant knows, his work has been of very good standard and he had no cause to any of his superior authority to feel dissatisfied with his work and performance. Aggrieved by the said order of supersession, the applicant has filed this original application seeking the aforesaid relief.

3. Heard the learned counsel for the parties.

4. It is argued on behalf of the applicant that he had served the institution with his full devotion and there ^{adverse} was nothing/against his work, conduct and integrity and he was never communicated any adverse remarks against his A.C.Rs. His roster no. was 1226 while the roster number of Shri Deepak Chatterjee was 1307, apparently junior to the applicant. Shri Chatterjee was, however, promoted as Senior Accounts Officer on 16.4.2001 ignoring the rightful claim of the applicant. Hence the supersession of the applicant by Shri Deepak Chatterjee, who is junior to him, being promoted as Senior Accounts Officer is illegal, arbitrary and in violation of rules. The applicant is entitled to be promoted from the date his junior was promoted.

5. In reply, learned counsel for the respondents argued that the promotions are made after following the due process by adopting the principles of seniority-cum-fitness. The applicant was considered along with other eligible Accounts Officers for promotion by the D.P.C. which consisted of three officers in Senior Administrative Grade and one officer in the Higher Administrative Grade. The D.P.C. was chaired by respondent no. 2 i.e. C.G.D.A., who is the head of Defence Accounts Department. The D.P.C. adopted the guidelines contained in DOP&T OM dated 10.4.89



while considering the names of Accounts officer for promotion to the grade of Senior Accounts officer on seniority-cum-fitness basis. The applicant was not recommended by the D.P.C. as the ACRs, which were considered by the DPC, did not meet the requirement to get the required bench mark i.e. 'GOOD' as per the DPC guidelines/instructions. Therefore, he was not promoted to the post of Senior Accounts officer. The applicant has not made any allegation of malafide against the Chairman and the Members of the D.P.C. It is further argued that reasons for non-promotion of the applicant need not be communicated to him. The performance of an employee in the lower grade cannot be compared with higher grade when he gets promoted.

6. After hearing the learned counsel for both the parties and having carefully perused the D.P.C. proceedings and ACRs for the relevant period produced by the respondents, we find that the case of the applicant for promotion to the post of Senior Accounts officer was considered alongwith other eligible Accounts officer by the D.P.C. which met in Feb/March, 2001 following the guidelines contained in DOP&T O.M. dated 10.4.1989 but he was not found fit for promotion as Senior Accounts officer as he could not meet requirement to get the required bench mark i.e. 'GOOD'. The contention of the applicant that he has been wrongly ignored while his junior Shri Deepak Chatterjee, whose roster no. is 1307, has been promoted to the post of Senior Accounts officer has no force as the said Shri Deepak Chatterjee has met the requirement of bench mark i.e. 'GOOD' and has rightly been recommended by the DPC for promotion to the said Post. Hence, the respondents have not committed any illegality or irregularity while promoting the so called junior Shri Deepak Chatterjee. This view of our is fully supported by the judgement of the Punjab & Haryana Hon'ble High Court of in the case of Mulkh Raj, Supdt.Gr.II



vs. State of Punjab through the Chief Electoral officer, reported in 2003(1), ATJ 431 in which their Lordships have held that "Promotion - Seniority- Promotion based on seniority - cum - merit basis -Seniority alone is not sufficient to claim promotion - Promotion of a person who has a better service record than his senior justified." Since the so-called junior Shri Deepak Chatterjee to the applicant was having better service record than the applicant, he was rightly found fit by the D.P.C. for promotion to the post of Senior Accounts Officer.

7. In the light of the observations made above and also in view of the judgement of the Hon'ble High Court of Punjab & Haryana rendered in the case of Mulk Raj, Supdt. Gr.II (Supra), we are of the considered opinion that the applicant has no case and the Original Application No. 708 of 2001 deserves to be dismissed. Accordingly the O.A. is dismissed without any order as to costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

/na/

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

प्रतिलिपि अर्को दितः:-

- (1) अध्यक्ष, उच्च न्यायालय बार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल
- (3) प्रत्यर्थी श्री/श्रीमती/कु.....के काउंसल
- (4) न्यायालय, जिला, जबलपुर न्यायाधीश

सूचना एवं आवश्यक कार्यवाही हेतु

P. Shankar
उप सचिव, 10/06

7/06/04
5/7/04