

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET**

(11)

APPLICATION NO.: _____

Applicant (S)

Respondent (S)

Advocate for Applicant (S)

Advocate for Respondent (S)

OFFICE OF THE REGISTRY

ORDERS OF THE TRIBUNAL

01.07.2009

OA No. 358/2005

**Mr. C.B. Sharma, Counsel for applicant.
Ms. Dilshad Khan, Proxy counsel for
Mr. S.S. Hassan, Counsel for respondents nos. 1 to 4.
Mr. Gaurav Jain, Counsel for respondent no. 5.**

Heard learned counsel for the parties.

**For the reasons dictated separately, the OA is
disposed of.**

**(B.L. KHATRI)
MEMBER (A)**

**(M.L. CHAUHAN)
MEMBER (J)**

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 01st day of July, 2009

ORIGINAL APPLICATION NO. 358/2005

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Kishori Lal Raiger son of Shri Dhana Ram Raiger aged about 35 years, resident of Village and Post Achrol Tehsil Amer (Jaipur) and presently residing quarter No. 20/17, Lekha Nagar Ridge Road, Jabalpur (M.P.) and working as Auditor, Office of Pay and Accounts Office (ORS), GRC, Jabalpur.

.....APPLICANT

(By Advocate: Mr. C.B. Sharma)

VERSUS

1. Union of India through its Secretary to the Government of India, Department of Defence, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Controller General Defence, Accounts, R.K. Puram, New Delhi.
3. Controller Defence, Accounts Ridge Road, Jabalpur (M.P.).
4. Secretary, Staff Selection Commission, 12-CGO Complex, Lodi Road, New Delhi.
5. Chief Commissioner, Income Tax, NCR Building, Statue Circle, Jaipur.

.....RESPONDENTS

(By Advocate:

(Ms. Dilshad Khan proxy to Mr. S.S. Hassan-Respondents nos. 1 to 4
Mr. Gaurav Jain – Respondent no. 5)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- "(i) That the entire record relating to the case be called for and after perusing the same respondents may be directed to treat the applicant appointee of February, 2000 from the date junior so appointed and also to assign seniority from February, 2000 with all consequential benefits including pay and allowances.

- (ii) Any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.
- (iii) That the cost of this application may be awarded."

2. Briefly stated, facts of the case are that the applicant appeared in the selection for the post of Divisional Accountants/ Auditors/ Jr. Accounts/ UDC, which was conducted by the SSC in the year 1995. He was declared successful. Accordingly, the name of the applicant was sponsored to Office of Defence Service, Chandigarh. However, he was not given appointment due to non-availability of vacancy in their office. In the meantime, two of the candidates, who were junior to the applicant, their name were sponsored to the Chief Commissioner of Income Tax, Rajasthan and Accountant General (A&E), Jaipur respectively and they got appointment. Feeling aggrieved, the applicant filed OA No. 150/2001 before this Tribunal thereby contending that the persons junior to the applicant have been given appointment whereas he has not been given appointment. The said OA was disposed of vide order dated 02.04.2002, the operative portion of the judgement is reproduced hereinbelow:-

"This Application is allowed. The Staff Selection Commission is directed to sponsor the name of the applicant against the first reserved vacancy advised to them by the indenting user department. The question of seniority and date of appointment, can be looked into later on after the applicant gets appointment. No costs."


Since the question of seniority and date of appointment was left open by this Tribunal, as such the applicant has filed this OA thereby praying for the aforesaid reliefs.

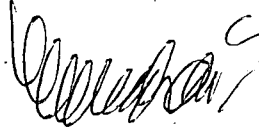
3. The respondents have filed reply. The facts, as stated above, have not been disputed. It is, however, stated that the applicant could not be given appointment due to administrative reasons as there is no vacancy available in the office of Defense Service, Chandigarh. It is also stated, ^{that} the request of the applicant for counting of service with effect from the date on which his juniors had joined in the respective user offices cannot be acceded to as he has been appointed only on 01.07.2003 and appointment of the applicant cannot be antedated

since he had not worked all these years, hence is not entitled for any consequential benefits with regard to the pay and other allowances.

4. We have heard learned counsel for the parties and had perused the material placed on record. The question which requires our consideration in the facts & circumstances of the case is whether the applicant can be treated as appointee with effect from February, 2000 when such junior persons were appointed and also assigned seniority with effect from February, 2000 with all consequential benefits. We are of the firm view that the present OA is wholly mis-conceived and deserves outright rejection. Admittedly, so called junior persons, as mentioned in Para No. 3 of the OA, were given appointment in different departments i.e. in Chief Commissioner of Income Tax, Jodhpur and Accountant General (A&E), Jaipur. The applicant has been given appointment in the office of CDA, Jabalpur. This appointment was given after asserting the vacancy position. Since there was no vacancy available in the year 2000, as such the applicant has got no legal right to be appointed in the absence of any post on the premise that some junior persons have been given appointment in different departments. Further the applicant cannot claim seniority on the basis of junior persons, who have been given appointment in different departments; their seniority is being maintained by different department differently. Another reason for not allowing the relief to the applicant is that the applicant has not impleaded so called junior persons as party respondents in this OA, who have been given appointment in February, 2000 and March 2000. It was necessary for the applicant to implead these persons as party respondents in this case and he could have claimed relief based on the fact that instead of two junior persons, he should be given appointment in the respective department with effect from the back date as he was above in the panel to that of so called junior persons. In that eventuality, possibly the case of the applicant could have been examined whether he could be appointed in place of those junior persons. But that is not the case here. Accordingly, the applicant is not entitled to any relief.

5. In view of what has been stated above, we are of the firm view that the applicant has not made out any ^{case} for grant of any relief. Accordingly, the OA dismissed with no order as to costs.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ