

Central Administrative Tribunal
Jaipur Bench, JAIPUR

(11)

ORDERS OF THE BENCH

13th July, 2009

OA 319/2007

Present: Shri C.B. Sharma, counsel for applicant
Shri Gaurav Jain, counsel for respondents

At the request of learned counsel for applicant, the matter may be listed for hearing on 4.9.2009.

It is made clear that no further adjournment will be granted on that date being last opportunity.


(B.L.Khatri)
Member (Administrative)


(M. L.Chauhan)
Member (Judicial)

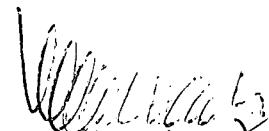
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4.9.09

Mr. C.B. Sharma, Counsel for applicant
Mr. Gaurav Jain, Counsel for respondents

Heard learned Counsel for the parties.
For the reasons dictated separately,
the OA is disposed of.


(B.L.Khatri)
M(A)


(M. L Chauhan)
M (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 04th September, 2009

ORIGINAL APPLICATION NO. 319/2007

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER

HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Chandra Bhan Verma son of Late Shri K.M. Verma aged about 61 years, resident of 71/242-243, Pratap Nagar Housing Board Colony, Sanganer, Jaipur and retired as Inspector Income Tax on 31.10.2006.

.....APPLICANT

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

VERSUS

1. Union of India through its Secretary to the Government of India, Department of Revenue, Ministry of Finance, North Block, New Delhi.
2. Central Board of Direct Taxes through its Chairman, North Block, New Delhi.
3. Chief Commissioner of Income Tax, (CCA), NCR Building, Statue Circle, Jaipur.

.....RESPONDENTS

(By Advocate : Mr. Gaurav Jain)

ORDER (ORAL)

The applicant was an Income Tax Inspector retired on superannuation on 31.10.2006, has filed this OA thereby praying that respondents may be directed to consider and promote him to the cadre of Income Tax Officer, scale Rs.7500-11500/-, from May, 2006 or as per his position with all consequential benefits including arrears of pay & allowances after due fixation of pay. The further prayer of the applicant is that on account of such promotion, he may be extended revised pension.

2. Briefly stated, facts of the case are that the applicant was promoted in cadre of Income Tax Inspector on 31.03.1997. It is the

case of the applicant that he has passed the departmental examination for the purpose of promotion to the cadre of Income Tax Officer in the year 2001 and was due for promotion in the year 2006. The grievance of the applicant is that the respondent have not held the DPC for promotion to the post of Income Tax Officer for the recruitment year 2006-2007 in time, as such he is entitled to promotion from back date, as prayed by him.

3. Notice of this application was given to the respondents. The respondents have filed their reply. In the reply, the respondents have stated that they have taken all the steps for holding Departmental Promotion Committee as per model calendar for holding DPCs. For that purpose, spade work regarding requisition of Annual Confidential Reports and Vigilance clearance in respect of the eligible candidates was started well in time. However, the DPC could not be held in time as per the order of the Hon'ble Supreme Court and decision of the Hon'ble Gujarat High Court and Hon'ble Rajasthan High Court dated 10.4.2006. The revised seniority list for the cadre of Inspector was prepared and circulated by the Administration and these orders were complied with in the month of July, 2006. Thus according to the respondents, the contention of the applicant that DPC could have been held in April/May, 2006 is not tenable. The respondents have further stated that thereafter the stay was granted by this Tribunal in OA No. 264/2006 on 25.07.2006, which was operative till 09.08.2006, and further stay was granted in OA No. 297/2006 on 09.08.2006, which order was made absolute on 28.08.2006 and hearing of the case could not take place till 31.10.2006 i.e. date of retirement of the applicant. It is stated that, however, the DPC was held in the first week of December, 2006. It is further stated that during the recruitment year 2006-2007, total 37 vacancies including existing and anticipated were ~~available~~ required. It is further stated that in the eligibility list, the name of the applicant appears at sl. No. 15 and 14 persons, senior to the applicant, were also not granted promotion either on regular basis or on ad hoc basis. The respondents have categorically stated that now the applicant has retired and the DPC has been held only after the

retirement of the applicant, thus he is not entitled for promotion from back date.

4. We have heard the learned counsel for the parties and have gone through the material placed on record. We are of the view that the applicant has not made out any case for grant of relief. From the material placed on record and as noticed above, it is evident that the DPC for recruitment year 2006-2007 could not be held in the month of April/May 2006 on account of finalization of the seniority list pursuant to directions issued by the Courts and also the interim stay granted by this Tribunal. Thus, it cannot be said that respondents are responsible for not convening the DPC in time. Facts remain that no DPC for promotion to the post of Income Tax Officer could be held prior to retirement of the applicant on superannuation on 31.10.2006. It is also evident from record that neither any senior person to the applicant nor any junior person to the applicant was granted promotion prior to the retirement of the applicant on superannuation. Thus we are of the firm view that the applicant is not entitled to any relief in view of the law laid down by the Hon'ble Supreme Court in the case of **Baij Nath Sharma vs. Hon'ble Rajasthan High Court at Jodhpur and Another**, 1998 SCC (L&S) 1754, whereby the Apex Court has held that retired employee could have a valid grievance if any of his junior had been given promotion from a date prior to his superannuation but he cannot complain when promotion was made prospectively after his retirement. The ratio as laid down in the case of Baij Nath Sharma (Supra) is squarely applicable to the facts of this case. Accordingly the OA is dismissed with no order as to costs.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ