

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 11th day of April, 2011

Original Application No.407/2007

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

Sua Lal
s/o Dayal Chand,
r/o Jaipur,
now a days UDC Accounts Section,
Rajasthan Geo Spatial Data Central,
Survey of India,
Jaipur

.. Applicant

(By Advocate: Shri S.K.Jain)

Versus

1. Union of India
through Secretary to the Govt. of India,
Department of Science and Technology,
New Delhi.
2. Surveyor General of India,
Survey of India,
PB 37 Dehradun, Uttranchal,
3. Shri Ashok Prim,
Additional Surveyor General,
Rajasthan, Geo Spatial Data Centre,
Survey of India,
Great Arc Bhawan-1,
Sector-10, Vidyadhar Nagar,
Jaipur

.. Respondents

(By Advocate: Shri Mukesh Agarwal)

ORDER (ORAL)

By way of this OA the applicant prays for writ, order or direction to quash and set aside the impugned orders dated 10.11.2005 (Ann.A/1) and order dated 11.12.2006 (Ann.A/2) forfeiting his promotion and further that the applicant be ordered to be given posting in accordance with order dated 9.9.2005 and 29.9.2005 with all consequential benefits of salary, arrears, seniority and promotion.

2. Brief facts of the case are that the applicant while working as UDC in RGDC, Survey of India, Jaipur was offered regular promotion to the post of Assistant/Head Clerk on transfer to Gujarat, Daman and Diu vide order dated 9.9.2005 (Ann.R/1). It was also mentioned in para-4 of the said letter that if the individual concerned does not accept the offer of promotion he would not be offered promotion for one year from the date of refusal as per rules.

3. The applicant instead of joining at the new place of posting on promotion submitted a representation to the Surveyor General of India vide application dated 20.9.2005 (Ann.R/2) to give him promotion at Jaipur station. His request was turned down by the Surveyor General Office vide letter dated 17/18.10.2005 stating that it is not possible to post him on promotion at Jaipur station as there was no vacant post of Assistant available and he was debarred from promotion for a period of one year and the applicant was also informed vide letter dated 10.11.2005.



4. Again the applicant was offered promotion in the year 2006 vide letter dated 29.9.2005 posting him to Bihar GDC, Patna and again same request was made to the Surveyor General of India to give promotion at Jaipur station vide his application dated 30.10.2006 which was not accepted as it was not possible to give promotion at Jaipur due to non-availability of vacant post of Assistant/HC at Jaipur Station and he was debarred for promotion for a period of one year vide letter dated 20.11.2006 (Ann.R/7).

5. Aggrieved and dis-satisfied with the order passed by the Surveyor General, the applicant filed the present OA before this Tribunal.

6. The learned counsel appearing for the respondents submits that if the applicant was aggrieved with the order dated 10.11.2005 then he was under legal obligation to file the OA at that time. Non-filing of OA at the appropriate time and filing the same at this stage is misconceived, misleading and suffers from delay and, therefore, it is liable to be dismissed on the ground of limitation alone whereas the learned counsel appearing for the applicant has drawn our attention towards application Ann.A/4 dated 20.9.2005 submitted by the applicant whereby he requested to promote him at Jaipur Station itself, but has not foregone the promotion. Again vide Ann.A/6 application dated 30.10.2006 same request was made by the applicant and promotion was not given to the applicant for want of vacancy.

7. The learned counsel appearing for the respondents submitted that the application dated 20.9.2005 (Ann.A/4) was submitted by



the applicant in the year 2005 and the same has been rejected but the applicant has not challenged the same at the relevant point of time. Admittedly, in view of the provisions of Section 21 of the Administrative Tribunals Act, the challenge to the refusal order Ann.R/4 dated 10.11.2005 is barred by limitation and the same cannot be challenged at such a belated stage and so far as Ann.A/1 is concerned, we do not want to interfere with the order for the reasons as observed hereinabove, but with regard to subsequent order by which request was made by the applicant vide his application dated 30.10.2006 and the same was rejected vide Ann.A/2 dated 11.12.2006, the present OA is maintainable.

7. Having considered the request made by the applicant and the order passed by the respondents vide Ann.A/2 it is not disputed that in clear terms the applicant has not expressed his willingness to forego promotion but it is clear from bare perusal of the application dated 30.10.2006 that the applicant time and again requested to be remained at Jaipur station. Considering the fact that the applicant do not want to avail promotion, therefore, he was allowed to continue on the post of UDC and thus debarred for one year for promotion and that period is over on 30.10.2007. Upon inquiry, it was submitted that still the applicant is working at Jaipur Station and promotion and posting orders issued by the respondents in the interest of administration were not obeyed by the applicant, as such, the respondents are directed to ask him either to forego or comply the transfer order and if the applicant do not want to forego the promotion in clear terms, we are of the view



that the respondents are at liberty to pass a fresh order of transfer/promotion if it is not passed so far and if the applicant do not obey the order passed by the respondents, the respondents are at liberty to initiate disciplinary proceedings against the applicant.

9. In view of the observations made hereinabove, the OA shall stand disposed of with no order as to costs.

Anil Kumar

(ANIL KUMAR)
Admv. Member

K. S. Rathore

(JUSTICE K.S.RATHORE)
Judl. Member

R/