

**Central Administrative Tribunal
Principal Bench**

OA No.1913/2017

New Delhi, this the 29th day of May, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Dr. Gajender Singh (Aged about 49 years)
S/o Late Shri Harbansh Singh
R/o D 254/2nd Floor
Anand Vihar, Delhi-110092.Applicant

(By Advocate: Shri Ravinder Kumar)

Versus

1. The Secretary, Ministry of Urban Development
Nirman Bhavan, New Delhi.
2. The Director General, CPWD, Nirman Bhavan
New Delhi-110001.
3. The Secretary
Department of Personnel & Training
North Block, New Delhi.
4. UPSC through Secretary
Dholpur House, Shahjahan Road
New Delhi-110069.Respondents

ORDER (ORAL)

Justice Permod Kohli :-

Issue notice to the respondents. Shri Hanu Bhaskar and Shri R.V. Sinha, learned counsel, appear and accept notice on behalf of respondent Nos.1 to 3 and 4 respectively.

2. The Applicant was appointed as Assistant Director (Horticulture) w.e.f. 10.01.1996 in the CPWD. The next promotion is to the post of Deputy Director (Horticulture) with seven years regular service in the grade of Assistant Director. It is stated that the applicant completed seven years of service in the grade of Assistant Director (Horticulture) in the year 2003. It is further mentioned that in the year 2008 when the applicant was working as Assistant Director (Horticulture), a proposal for promotion to the post of Deputy Director (Horticulture) against the vacancy year 2008-2009 was routed. The applicant was at Sl. No.1. The proposal was sent by the Ministry to the UPSC. The applicant was undergoing a minor penalty which ended on 18.06.2008. The DPC held in UPSC declared the applicant unfit for promotion to the grade of Deputy Director against the vacancy for the year 2008-2009. It is stated that the applicant was fully eligible and had the requisite bench mark but the DPC found the applicant unfit. The Ministry, however, did not agree with the opinion of the DPC declaring the applicant unfit and did not approve the recommendations. The respondent No.1 Ministry remitted the matter back to the UPSC for reconsideration. The DPC, however, reiterated its earlier recommendation. The applicant has also referred to the candidature of one Robin

Deori who was declared fit by the DPC under similar circumstances. In the meantime the applicant promoted as Deputy Director (Horticulture) on the recommendations of the DPC for the vacancy year 2009-2010. However, as per the advice of the Appointments Committee a vacancy for the year 2008-2009 was kept vacant by the respondents. The case of the applicant is that in terms of the DOP&T OM dated 10.04.1989, an officer who has been reduced to a lower stage in the time scale of pay, cannot be considered on that account to be ineligible for promotion to the higher grade. The applicant relied upon the said OM as also the opinion of the Ministry. The applicant has also referred to the latest seniority list issued vide Office Memorandum dated 10.05.2016. The applicant's name figures at Sl. No.5 in the grade of Deputy Director(Horticulture) and there is a remark against his name, "subject to approval from ACC, the same is awaited". It is further stated that the matter is still under consideration of the Government.

3. The applicant also made a representation dated 20.12.2016 to the D.G., CPWD. A copy of the representation has also been marked to the Secretary, Ministry of Urban Development, Nirman Bhawan, New Delhi. Learned counsel for the applicant submits that the decision is required to be

taken by the M/o Urban Development on the representation of the applicant.

4. Shri R.V. Sinha, learned counsel, who was served with advance copy of the OA has raised the issue of limitation.

5. Without going into the merits of the case, including the question of limitation, at this stage, we dispose of this OA with the direction to Respondent No.1 to take decision on the representation of the applicant dated 20.12.2016 by passing a reasoned and speaking order within a period of two months from the date of receipt of a copy of this order. We make it clear that this direction is without prejudice to the right of the respondents to raise the issue of limitation, if at any later stage any fresh petition is filed.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

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