

**Central Administrative Tribunal
Principal Bench**

OA No.2011/2016

New Delhi, this the 3rd day of June, 2016

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

Smt. Bonani Ghosh,
Aged about 59 years
W/o Sh. Debashish Ghosh
R/o 18, Southern Avenue,
Ground Floor, Kolkata-700026
(Working as Commissioner of Income Tax)

- Applicant

(By Advocate : Shri S.K. Gupta)

Versus

1. Secretary,
Ministry of Finance,
Government of India,
North Block, New Delhi.
2. Chairman,
Central Board of Direct Taxes,
Ministry of Finance,
Government of India,
North Block, New Delhi.
3. Union Public Service Commission,
Through its Secretary,
Dholpur House,
Shahjahan Road,
New Delhi.

- Respondents

(By Advocate : Shri Hanu Bhaskar)

ORDER (ORAL)

Mr. Justice Permod Kohli, Chairman :

Heard.

2. Issue notice.

3. Shri Hanu Bhaskar, learned counsel, accepts notice on behalf of respondents No.1&2 and Shri R.N. Singh, accepts notice on behalf of respondent No.3.

4. The applicant was promoted as Commissioner of Income Tax w.e.f. 23.06.2001. It is alleged that one Shri Satya Prakash, who was reporting officer of the applicant, spoiled her APAR for the period 01.04.2008 to 20.10.2008. On receiving the APARs, in terms of DoP&T Memorandum dated 13.04.2010, she made a representation for upgradation of her ACRs. Receiving no response, the applicant filed OA No.3987/2013 before the Tribunal. During the pendency of the aforesaid OA, 1979 batch of the Commissioner of Income Tax were considered for promotion to the post of Chief Commissioner of Income Tax and vide order dated 16.12.2013, some officers were promoted. In view of the pendency of the OA, the applicant could not be promoted, particularly, on account of below bench mark ACRs awarded to her. On 01.04.2014, a DPC was convened to consider the promotions to the post of Principal Commissioner of Income Tax and persons shown at Sl. No.72, 73,74, 75 and 77 onwards of the Civil List were considered and the applicant could not be considered in the said DPC as well.

5. On the basis of the recommendation of the DPC, promotions were made on 30.01.2015. OA No.3968/2013 filed by the applicant came to be allowed vide order dated 18.03.2015. A direction was

issued by the Tribunal not to consider the ACRs impugned for the purposes of promotion of the applicant. This judgment was implemented by the respondents vide order dated 18.09.2015 (Annexure-A/6). In the meantime, promotions made to the post of Chief Commissioner of Income Tax without promoting the candidates as Principal Commissioner of Income Tax came to be withdrawn resulting in filing of OA 478/2015 and OA No.1087/2015. These OAs were, however, dismissed by this Tribunal vide order dated 12.08.2015. A Writ Petition (Civil) No.8235/2015 was preferred before the Hon'ble High Court of Delhi, wherein, status quo was maintained vide interim order dated 28.08.2015. Subsequently, the officers of 1981-82 batches who were admittedly junior to the applicant were promoted as Principal Commissioner of Income Tax vide order dated 30.01.2015 and further promoted as Chief Commissioner of Income Tax on adhoc basis vide promotion order dated 20.01.2016. The applicant made representation seeking promotion at par with his juniors. The representations dated 24.09.2015 and 18.05.2016 are placed on record as Annexures-A/8 and A/10.

6. Shri S.K. Gupta, learned counsel appearing for the applicant submits that the applicant has been denied consideration for promotion to the post of Principal Commissioner of Income Tax and, thereafter, as Chief Commissioner of Income Tax even though her

below bench mark ACRs are not required to be considered for according consideration for such promotion. Her further grievance is that even the representations filed by her have not been responded to or decided till date.

7. In view of the above circumstances, we dispose of this OA at the admission stage itself, with a direction to the respondents to examine, consider and dispose of the representations of the applicant by passing a speaking and reasoned order within a period of two months from the date of receipt of a certified copy of this order. No costs.

(V.N. Gaur)
Member (A)

(Justice Permod Kohli)
Chairman

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