

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A.No.3694/2012

Order reserved on 14th December 2016

Order pronounced on 16th January 2017

**Hon'ble Dr. K.B. Suresh, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Mr. K R Ilango
s/o Mr. K R Ramamurthy
r/o B-24, West Patel Nagar
New Delhi – 1

(Mr. M.K. Bhardwaj, Advocate)

..Applicant

Versus

MCD & others through

1. The Commissioner
Municipal Corporation North Delhi
Civic Centre, Minto Road, New Delhi
2. The Addl. Commissioner (Estt.)
Municipal Corporation North Delhi
Civic Centre, Minto Road
Delhi
3. Mr. Krishan Kumar Chikara
Serving as Deputy Controller of Accountants
O/o Deputy Commissioner, EDMC
North Zone, Shahdara
4. Vineet. M
Serving as Deputy Controller of Accountants
o/o Deputy Commissioner, SDMC
North Zone, Shahdara

..Respondents

(Mr. Vijay Pandita, Advocate)

O R D E R

Mr. K.N. Shrivastava:

The applicant has filed the instant O.A. under Section 19 of the Administrative Tribunals Act, 1985 praying for the following main reliefs:-

“(a) to quash and set aside the impugned order No. Office Order No.D/CA cum FA/F&G/2012/59 & 60 dated 27.04.2012 to the extent the applicant has not been promoted as Accountant from the date of passing of Examination and as Asstt. Chief Accountant from the date of promotion of similarly placed persons namely Sh. V.P. Phillip, N. Premrajan, Balwinder Singh, Sanjay Gupta & Anil Kumar.

(ii) To direct the respondents to promote the applicant to the post of Deputy Chief Accountant/Dy. Controller of Accounts on adhoc basis w.e.f..... as given to his juniors and similarly placed persons.

(iii) to declare the action of respondents in not giving even adhoc promotion to the applicant as Accountant and as Asstt. Chief Accountant as illegal and arbitrary.

(iv) to declare the action of applicants in not fixing the seniority of the applicant as Accountant on the basis of his position in the select panel prepared on the basis of result of examination conducted by CAG in 1997 as illegal and arbitrary and direct the respondents to fix the seniority of the applicant as Accountant and as Asstt. Chief Accountant along with similarly placed persons namely Sh. V.P. Phillip, N. Premrajan, Balwinder Singh, Sanjay Gupta & Anil Kumar.”

2. The brief facts of the case are as under:-

2.1 The applicant joined the erstwhile Municipal Corporation of Delhi (MCD) as a Lower Division Clerk (LDC) in the year 1983. After putting in five years of regular service as LDC, he became eligible for appearing in SOGE-II Examination to be conducted by the Comptroller & Auditor General (CAG) of India. The applicant appeared in the said Examination in the year 1997. He was selected in the said Examination along with five others (Annexure A-4).

2.2 The applicant thus became eligible for appointment as Accountant. Since the Recruitment Rules (RRs) did not provide for appointment to the post of Accountant after in-house candidates having passed the SOGE-II Examination, the applicant could not be promoted to the said post. Subsequently, the RRs were amended and such candidates became eligible

for appointment as Accountants. The SOGE-II Examinations are held by the CAG for eligible officials across various Government Departments / Organizations periodically. The applicant was appointed as Accountant on *ad hoc* basis on 02.03.2000.

2.3 The MCD vide Annexure A-5 office order dated 20.09.2010 promoted as many as 83 officers to the post of Accountant on regular basis w.e.f. 13.02.2003. The applicant is at Sl. No.31 in that list. In the said order, the applicant was given further promotion to the post of Assistant Chief Accountant (ACA) w.e.f. 01.01.2007.

2.4 The grievance of the applicant is that he had cleared the SOGE-II Examination along with five other candidates, namely Mr. Balbinder Singh, Mr. Prema Rajan N., Mr. Sanjay Gupta, Mr. Philip V.P. and Mr. Anil Kumar. They have been given the *ad hoc* appointment to the post of Accountant w.e.f. 28.12.1998 whereas the applicant has been granted w.e.f. 02.03.2000 (Annexure A-4). Consequently, his seniority in the grade of Accountant appointed on regular basis and that in subsequent promotional grade of ACA vide Annexure A-5 order dated 20.09.2010 have also been adversely affected. He has also questioned the Annexure A-3 office order dated 27.04.2012 wherein the five above officers mentioned, who had cleared the SOGE-II Examination along with the applicant, have been shown at Sl. Nos. 1, 2, 3, 4 & 5 whereas the applicant is at Sl. No.31.

3. Pursuant to the notices issued, the respondents entered appearance and filed their reply. The applicant did not file any rejoinder despite several opportunities. With the completion of pleadings, the case was taken up for hearing the arguments of learned counsel for the parties on 14.12.2016. Mr.

M.K. Bhardwaj, learned counsel for applicant and Mr. Vijay Pandita, learned counsel for respondents were heard.

4. The respondents in their counter reply have stated that the applicant was inflicted with a major penalty of “stoppage of four increments with future effect” under the DMC Service (Control & Appeal) Regulations, 1959 vide order dated 01.06.1995. The currency of the said punishment was up to 30.11.1999. Accordingly, unlike other five officers, who also cleared the SOGE-II Examination along with the applicant in 1997, the applicant could not be promoted along with them w.e.f. 28.12.1998. Consequently, his seniority on regular appointment as Accountant later in the promotional grade of ACA had got adversely affected, vis-à-vis, the above mentioned 5 officials.

5. From the perusal of the records and after hearing the arguments of the parties, we do not find any infirmity or illegality in the action of the respondents, vis-à-vis, the applicant. Admittedly, the applicant was inflicted a major penalty whose currency continued up to 30.11.1999. Obviously his *ad hoc* promotion as Accountant could have been possible only after the currency of punishment had ended and accordingly he was promoted as Accountant on *ad hoc* basis w.e.f. 02.03.2000. The cases of the five other officials, who had cleared the SOGE-II Examination along with applicant in 1997, are entirely different. They were not facing any penalty and thus were promoted as Accountants on *ad hoc* basis w.e.f. 28.12.1998. This situation has continued even at the time of regularizing their services as Accountant and later promoting these officers and the applicant to the post of ACA.

6. In the conspectus of the discussions in the foregoing paragraphs, we do not find any merit in the O.A. It is accordingly dismissed.

No order as to costs.

(K.N. Shrivastava)
Member (A)

(Dr. K.B. Suresh)
Member (J)

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