

**Central Administrative Tribunal
Principal Bench**

O.A. No.4240/2014

New Delhi this the 02nd day of December, 2016

Hon'ble Sh. Raj Vir Sharma, Member (J)

Hon'ble Sh. K.N.Shrivastava, Member (A)

1. Kamlesh Kumar Jhell
S/o Late Sr. S.D. Jhell
R/o Flat No. C-III/Type-IV,
Nanak Pura, New Delhi-110021
Age 53 years
Designation : Under Secretary Applicant

(By Advocate: Mr. T.A. Ansari)

Versus

1. Union of India
Through Secretary
Ministry of Personnel, Public Grievances and Pensions,
Department of Personnel and Training
North Block,
New Delhi.
2. The Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan
New Delhi. Respondents

(By Advocate: Ms. Avinash Kauri)

ORDER (ORAL)

Mr. K.N. Shrivastava, Member (A)

1. The applicant at the relevant point of time was working as Under Secretary in the Ministry of Health and Family Welfare. When the meeting of the Screening Committee constituted by DOP&T was held on 27.05.2013 to recommend the names of eligible Under Secretaries, belonging to CSS Cadre, for promotion to the grade of Deputy Secretary, on ad hoc basis, the Screening Committee considered in all 86 candidates, who were in the zone of consideration. The Committee also recommended the name of the applicant for promotion on ad hoc basis, subject to his vigilance clearance from AVD. The DOP&T vide impugned order at Annexure A-I dated 18.06.2013 promoted 38 candidates to the post of Deputy Secretary on ad hoc basis as per the Screening Committees' recommendations. The name of the applicant was included in the said list.

2. The applicant made a representation to the DOP&T vide on 19.09.2013 (Page 34 of the Paper Book). In consideration of the said representation, he was finally granted notional promotion, on ad hoc basis, to the post of Deputy Secretary vide DOP&T's order dated 08.03.2016 (Page 68 of the Paper Book).
3. The grievance of the applicant is that he was in the select list recommended by the Screening Committee in its meeting held on 27.05.2013, and that all the candidates recommended for promotion by the Screening Committee were promoted vide impugned Annexure A-I dated 18.06.2013 by the DOP&T. The DOP&T, however, promoted him much belatedly and that too notionally.
4. We have heard the learned counsel for the parties. It is absolutely clear from the DOP&T's Order dated 08.03.2016 that the applicant has been given promotion after obtaining the vigilance clearance from AVD. The Screening Committee's recommendation in the case of the applicant was that he may be promoted on ad hoc basis, subject to his getting the vigilance clearance from AVD. Since the vigilance clearance has been granted to the applicant by ADV, there is no justification for adopting a discriminatory approach towards him.
5. We are, therefore, of the view that the applicant is also entitled for promotion on ad hoc basis at par with candidates included in the list at Page 11 of the Paper Book. Accordingly, we direct the respondents to grant promotion to the applicant, on ad hoc basis, w.e.f. 18.06.2013 within a period of three months from the date of receipt of a copy of this order. We also direct the respondents to grant the difference of pay and allowances to the applicant since 18.06.2013.
6. OA is accordingly allowed. No costs.

(K.N. Shrivastava)
Member (A)

(Raj Vir Sharma)
Member (J)

