

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A No. 3342/2018

This the 31st day of October, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Andrew W. K. Langstieh
Presently working as Additional Deputy Comptroller
And Auditor General,
S/o. Shri Illypson Jyrwa,
Aged about 58 years,
R/o. Flat No. C/2, Tower – 8,
New Moti Bagh, New Delhi – 110 021.Applicant

(By Advocate : Mr. Abhaya K. Behera)

Versus

1. Comptroller and Auditor General of India,
Office of the C&AG of India,
Pocket 9, DDU Marg, New Delhi – 110 002.
2. Appointments Committee of the Cabinet'
Through the Establishment Officer,
Ministry of Personnel, Public Grievances & Pensions,
Government of India, North Block,
New Delhi – 110 001. ...Respondents

(By Advocate : Ms. Eshita Bahruah with Mr. Nayan Dubey for Mr. Gaurang Kanth for respondent no.1)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :

The applicant is an officer in the office of first respondent organisation. At present, he is holding the post of Additional Deputy Comptroller and Auditor General. Higher post at pay level 17 is Deputy Comptroller and

Auditor General. The vacancies are reckoned year wise and for the year 2018, 5 vacancies were available.

2. The DPC for considering the cases for promotion to the said post was held on 22.01.2018. The applicant was one of the candidates and the DPC recommended his name along with other eligible officers. The applicant contends that several of his juniors were issued orders of appointment whereas he was not issued the order so far. He claims relief in this regard.

3. The respondents filed counter affidavit. It is stated that though the DPC recommended the case of the applicant in the context of vigilance clearance, it was noticed that three complaints were pending examination against him and when the matter was referred to CVC and other agencies, no clear signal is issued as yet.

4. We heard Mr. A. K. Behera, learned counsel for applicant and Ms. Eshita Baruah with Mr. Nayan Dubey for Mr. Gaurang Kanth, learned counsel for respondents.

5. The eligibility and fitness of the applicant for promotion to the post of Deputy Comptroller and Auditor General is not in dispute. The DPC recommended his name in unequivocal terms. The next step is to examine vigilance clearance and then to issue the order of

appointment. Assuming that some complaints were pending against the applicant, mere pendency cannot be a factor of denying him promotion. It is only when the complaints gave rise, or lead to any concrete disciplinary action that the promotion, which is recommended by the DPC, can be denied to the applicant. Counter affidavit is not specific as to the steps of verification of these complaints. The promotion of a senior officer like the applicant cannot be subjected to such a kind of uncertainty.

6. We, therefore dispose of the O.A, directing the respondents to finalise the issue pertaining to the vigilance clearance of the applicant, within a period of four weeks from the date of receipt of a certified copy of this order and take necessary steps as and when orders of appointment is made, it shall be effective from the date indicated by the DPC. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/Mbt/