

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A No. 1853/2014

Reserved on : 13.09.2018

Pronounced on : 25.09.2018

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Ms. Aradhana Johri, Member (A)**

Sh. Ishwar Dass,
S/o. Late Pt. Saligram,
Aged 71 years,
Designation-Inspector of Accounts (Retd.)
R/o. B-004, Dhauladhar Apartments,
Plot – 10, Sector-15, Dwarka,
New Delhi – 110 075.Applicant

(By Advocate : Mr. S. M. Dalal)

Versus

Union of India, through

1. The Secretary, Ministry of I & B,
Shastri Bhavan, New Delhi – 110 001.
2. The Director General,
All India Radio, Akashvani Bhavan,
Sansad Marg, New Delhi – 110 001.
3. The Pay and Accounts Officer, (IRLA)
Ministry of I & B, AGCR Building,
4th Floor, I.P. Estate,
New Delhi – 110 002.Respondents

(By Advocate : Mr. Rajeev Sharma)

ORDER

Ms. Aradhana Johri, Member (A) :

This O.A has been filed challenging the Directorate General : All India Radio speaking order dated 31.07.2013,

by which, the competent authority has rejected the request of the applicant to convene the review DPC to promote him to the post of Inspector of Accounts, with back date and give him consequential benefits.

2. The applicant Shri Ishwar Dass was made ad hoc Inspector of Accounts in All India Radio in February, 2003. He filed O.A No. 262/2003 for antedating his promotion, which O.A was dismissed by the Coordinate Bench of this Tribunal, vide order dated 26.08.2003. In the meanwhile, Shri. G. S. Bedi, another Inspector of Accounts, filed O.A No. 1376/2009, which O.A was allowed by the Coordinate Bench of this Tribunal vide order dated 12.03.2011 directing the respondents to convene a review DPC to consider the applicant for antedating his promotion.

3. Thereafter, the applicant filed O.A No. 341/2013 claiming that his case is squarely covered by the order of the Tribunal dated 12.03.2011 passed in the case of Shri G. S. Bedi Vs. UOI & Ors. The said OA No.341/2013 was disposed of by this Tribunal, vide order dated 29.01.2013, which reads as under:-

“In view of the above position, we dispose of this OA with the direction to the respondents to examine the case of the applicant for promotion in the light of the aforesaid order of this Tribunal dated 12.3.2011 in OA No.1376/2009. In case, his case is found covered by the aforesaid judgment, he shall be given the same benefits. In case it is not so, the respondents shall inform the applicant about it by way of a

reasoned and speaking order. The aforesaid directions shall be complied with, within a period of one month from the date of receipt of a copy of this order. There shall be no order as to costs.”

4. When the respondents did not comply with the above order of the Tribunal, the applicant filed C.P. No. 406/2013. In the meanwhile, a speaking order dated 31.07.2013 was passed by respondent no. 2 Directorate General: All India Radio, holding that it is not possible to accede to the request of the applicant.

5. It is the contention of the applicant that since his case is exactly the same as Shri. G. S. Bedi, the reliefs accorded in Shri G. S. Bedi's case, and allowed to him by this Tribunal vide order dated 29.01.2013 in O.A. No.341/2013, the same should be implemented.

6. The specific reliefs claimed by the applicant in this OA are as under:-

“a) To direct the respondent department to convene review DPC to consider the applicant for promotion to the post of Inspector of Accounts in the recruitment year 2001-2002, and if found ‘fit’ grant him regular promotion to the post of Inspector of Accounts w.e.f. 09.01.2002.

(b) Direct the respondents to fix the pay of the applicant as applicable to the post of Inspector of Account w.e.f. 09.01.2002 and pay the arrears of pay and allowances after fixation of pay along with interest at the rate of 12% p.a.

(c) Direct the respondents to re-fix the pension and gratuity of the applicant based on the revised pay fixation and pay the arrears of pension and gratuity along with interest @12% p.a.

d) Impose exemplary cost against the respondents and in favour of the applicant for forcing the applicant to file two petitions who is of 71 years of age.

e) Any other such relief, orders or directions which the Hon'ble Tribunal may deem fit and appropriate in the facts and circumstances of the case be also passed."

7. The respondents have refuted the claim of the applicant. The respondents submit that it has been held in O.A No. 262/2003 that no DPCs could be held because of stay orders of the Madras Bench of this Tribunal and Jammu & Kashmir High Court. The respondents further submit that the Tribunal also found that it was not the fault of the respondents that DPCs were not held and therefore, dismissed the O.A on 26.08.2003. They have gone on to say that the said O.A was filed for exactly the same reliefs as are now claimed in the present O.A. Therefore, they have argued that principle of res judicata applies in this matter. They have also asserted that this matter is time barred. The case of Shri. G. S. Bedi and that of the applicant are not comparable since Shri. Bedi was at the top of the seniority list and there was only one regular vacancy, and Shri Bedi was promoted against this vacancy. Since there was no other regular vacancy, the applicant could not be promoted and he retired on 31.05.2003. Elaborating this, a speaking order was passed by Directorate General : All India Radio on

31.07.2013. In the light of the speaking order in C.P. 406/2013, a Coordinate Bench of this Tribunal passed an order dated 26.11.2013 finding that the earlier order of this Tribunal in O.A 341/2013 dated 29.01.2013 had been complied with and no contempt subsisted.

8. Respondents have also stated that with effect from 03.02.2004 the scales of Inspector of Accounts and Senior Accounts Officer have been revised to Rs.7500-12000/- and pay fixation has been done accordingly. Therefore, there is no financial loss to the applicant.

9. Heard Shri. S. M. Dalal, learned counsel for applicant and Shri. Rajeev Sharma, learned counsel for respondents.

10. From the perusal of the Coordinate Bench's order dated 26.08.2003 in O.A No. 262/2003 filed by the applicant earlier, it is clear that the reliefs claimed by the applicant in the present O.A and those claimed in O.A 262/2003 are the same. Therefore, it is clear that this matter has already been considered by this Tribunal, and the O.A has been dismissed. Further, from the perusal of the said order in O.A 341/2013, it appears that it was not pointed out by the applicant that his earlier O.A No. 262/2003 has already been dismissed on merits by this

Tribunal. Therefore, the Tribunal passed the order directing the respondents to examine the case of the applicant for promotion in the light of Shri. G. S. Bedi's order of O.A. No. 1376/2009. In compliance of this order of the Tribunal, the competent authority passed the speaking order on 31.07.2013 which indicated that Shri. G. S. Bedi was senior to the applicant and there was only one vacancy in which he was considered for promotion. It is also pertinent that this Tribunal found the compliance of its order dated 29.01.2013 passed in OA No.341/2013 and closed the C.P. No.406/2013 on 26.11.2013. Further, it is clear that with effect from 03.02.2004, the scales of Inspector of Accounts and Senior Administrative Officers have been revised to Rs.7500-12000/- and the pay fixation done accordingly, therefore, cause of action in this matter also does not subsist.

11. We find that this O.A is devoid of merits and is therefore dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(V. Ajay Kumar)
Member (J)

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