

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/00530/2019
Chandigarh, this the 20th day of May, 2019

...
CORAM:HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

...
Sunil Taneja, aged 59 years, S/o Late Sh. Gobind Lal Taneja,
Regional Director, Employees State Insurance Corporation, Punjab
and Chandigarh Region, Plot No. 3, Madhya Marg, Sector 19-A,
Chandigarh- 160019 Group 'A'.

....Applicant

(Present: Mr. R.K. Sharma, Advocate)

Versus

1. Employees State Insurance Corporation through its Director General, Panchdeep Bhavan, CIG Road, New Delhi – 110002.
2. Additional Commissioner (P&A), Employees State Insurance Corporation, Panchdeep Bhavan, CIG Road, New Delhi – 110002.
3. Union Public Service Commission through its Secretary, Dholpur House, Shahjahan Road, New Delhi – 110001.

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Respondents

(Present: Mr. K.K. Thakur, Advocate)

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J)

1. Applicant is before this Court for issuance of a direction to the respondents to consider his claim for promotion to the post of Additional Commissioner from the date of availability of vacancy i.e. 01.03.2019 as he is fully eligible and the senior most person in the feeder cadre.
2. Heard.
3. Learned counsel argued that the applicant is fully eligible in terms of relevant rules for promotion to the post of Additional Commissioner and as per the DOP&T instructions dated 08.05.2017 (AnnexureA-3), the respondents are under obligation to

convene a DPC meeting, well in advance, to consider the cases of eligible persons for promotion, as per the rules. He further submitted that these DOP&T instructions have already been considered by the Hon'ble High Court of Delhi in the case of **B. Kumaravel Vs. Union of India & Others**, W.P. (C) No. 7416/2015 decided on 15.05.2018. While relying upon the instructions of the DOP&T, the Hon'ble High Court held the entitlement of consideration for promotion from the date of availability of vacancies. Learned counsel, therefore, submitted that the applicant is entitled to be considered for promotion to the post of Additional Commissioner w.e.f. 01.03.2019, along with other eligible candidates and for the consequential benefits.

4. Issue notice to the respondents.

5. At this stage, Mr. K.K. Thakur, Advocate, appears and accepts notice on behalf of Respondents No.1 and 2. Mr. B.B. Sharma, Advocate, appears and accepts notice on behalf of Respondent No. 3.

6. Learned counsel for Respondents No. 1 and 2 submitted that promotion cannot be claimed as a matter of right. Thus, the applicant cannot seek a direction, in the nature of mandamus, to the respondents to grant him promotion.

7. Learned counsel for the applicant stated that though promotion cannot be sought as a matter of right but certainly an employee has a right to be considered for promotion, on his turn, as per relevant rules, in time from which he cannot be deprived of.

Therefore, he submitted that a direction be issued to the respondents to consider the case of the applicant for promotion to the post of Additional Commissioner from the due date.

8. Mr. B.B. Sharma, learned counsel for the UPSC submitted that whenever the case for promotion is forwarded by Respondents No. 1 and 3, the UPSC shall convene a DPC meeting, as per the rules.

9. In the wake of above and considering the observations made by the Hon'ble Delhi High Court in the case of B. Kumaravel (supra), while holding the validity of the DOPT instructions on the issue, that a duty is cast upon the respondents to take steps to fill the available vacancies by holding DPC in a timely manner, it is deemed appropriate to dispose of the O.A., in limine, by directing the respondents to consider the case of the applicant, along with other eligible persons, for promotion to the Additional Commissioner, if there is no other legal impediment, and to forward its recommendations, in accordance with rules, to the UPSC for convening a DPC, expeditiously, but not later than three months from the date of receipt of a copy of this order. Ordered accordingly.

10. Needless to mention, that disposal of the O.A. shall not be construed as an expression of any opinion on the merit of the case.

No costs.

(SANJEEV KAUSHIK)
MEMBER (J)
Dated: 20.05.2019

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