

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 1090/2019

New Delhi, this the 05th day of April, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. V. K. Vashisht, Age – 66,
S/o Sh. Ram Prakash Vashisht,
Designation- Retired Deputy Secretary,
Group – B,
R/o 58, Sector – 37, Faridabad,
Retired Deputy Secretary from
Cabinet Secretariat, Govt. of India,
Room No. 1001B, Wing, Paryavaran
Bhawan, CGO Complex,
New Delhi – 110003.

...Applicant

(By Advocate : Mr. R. K. Shukla)

Versus

1. Union of India, through the
Cabinet Secretariat,
Govt. of India,
Rashtrapati Bhawan, New Delhi.
2. The Secretary (R),
Cabinet Secretariat,
Government of India,
Room No. 1001, B-Wing,
Paryavaran Bhavan,
CGO Complex,
New Delhi – 110003.

...Respondents

(By Advocate : Mr. Y. P. Singh)

O R D E R (ORAL)**Justice L. Narasimha Reddy, Chairman:**

The applicant was employed in Cabinet Secretariat, Government of India. He filed OA No. 3444/2011 complaining that he was denied promotion to the post of Deputy Secretary, even while his juniors were promoted to that post. He claimed the consequential benefits and the directions for convening a review DPC for the post of Deputy Secretary and, thereafter, for the post of Director and for payment of the resultant amounts.

2. The respondents opposed the said OA. The Tribunal allowed the OA through order dated 07.03.2012, directing that respondents shall convene a review DPC to consider the case of the applicant for promotion to the post of Deputy Secretary. Writ Petition No. 5036/2012 filed by the respondents was dismissed on 19.12.2012 by Hon'ble Delhi High Court. The order passed by the Hon'ble Delhi High Court was affirmed by the Hon'ble Supreme Court. The applicant retired from service on 30.09.2012. Through an order dated 19.10.2016, he was promoted to the post of Deputy Secretary, notionally w.e.f. 16.10.2007.

3. The applicant made representation dated 25.12.2016 stating that he was entitled to be considered for promotion to the post of Director also. The respondents issued memorandum dated 01.08.2018 informing the applicant that the directions contained

in the order in OA No.3444/2011 was only in relation to the post of Deputy Secretary and that there is no mention about the post of Director. The said memorandum is challenged in this OA.

4. The applicant contends that OA No. 3444/2011 filed by him was comprehensive in nature, and in relation to the post of Deputy Secretary and Director and once the OA was allowed, it was obligatory upon the respondents to promote him to the post of Director also. Various other contentions are also urged.

5. We heard Sh. R.K. Shukla, learned counsel for the applicant and Sh. Y.P. Singh, learned counsel for the respondents at great length at the admission stage itself.

6. The applicant, no doubt, made a comprehensive prayer in the OA No. 3444/2011 in relation to the promotion to the post of Deputy Secretary as well as Director. However, the relief granted in the OA was as under:-

“In view of the discussion made above, this Original Application is allowed. A direction is issued to the respondents to constitute review DPC as expeditiously as possible and preferably within a period of six weeks from today to consider promotion of the applicant on the post of Deputy Secretary when he was first overlooked by his juniors as fully indicated hereinbefore. There shall, however, be no order as to costs.”

7. The direction was only in relation to the post of Deputy Secretary. The respondents filed Writ Petition No.5036/2012 against the order in the OA. The order of the Tribunal was affirmed by the Hon’ble High Court of Delhi and Hon’ble Supreme Court. Once the issue assumed finality, the respondents passed an

order dated 19.10.2016 promoting the applicant to the post of Deputy Secretary w.e.f. 16.10.2007 by conducting a review DPC.

8. The applicant filed MA No. 837/2019 stating that relief granted in OA No. 3444/2011 was incomplete and accordingly sought clarification in that behalf. An order was passed on 08.03.2019 in the MA stating that once the order in the OA becomes final, after being questioned in Writ Petition and SLP, the question of issuing any clarification does not arise. Therefore, the present OA is filed by him claiming relief in respect of the post of Director.

9. In the facts of the present case, the principle of constructive *res-judicata* comes into play, and becomes a stumbling block for entertaining this OA. The reason is that though the applicant has claimed the relief in respect of posts of Under Secretary and Director, in OA No. 3444/2011, it was granted only as regards to the post of Deputy Secretary, and the one as regards the post of Director is deemed to have been rejected. It is not open to him to institute separate set of proceedings as regards the very relief. Added to that, the applicant has since retired from service and it is difficult to grant relief in that behalf.

10. We do not find any merit in the OA and it is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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