

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**CP-724/2017 in
OA-645/2013**

New Delhi, this the 11th day of January, 2019

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

Narain Dass
S/o Sh. Bishan Dass,
R/o 48/4, Ashok Nagar,
New Delhi-110018. ...Petitioner

(through Sh. Saqib)

Versus

1. Sh. T. Jacob,
Secretary, Union Public Service Commission,
Dholpur House, Shahjahan Road, New Delhi- 110069.
2. Sh. Ajay Mittal,
Secretary, Department of Personnel & Training,
Ministry of Personnel, PG & Pensions,
North Bloc, New Delhi. ...Respondents

(through Sh. Ravinder Agarwal with Sh. Amit Yadav
for R. No. 1 and Sh. R.V. Sinha with Sh. Amit Sinha for
R. No. 2)

ORDER(ORAL)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman

The applicant filed OA No. 645/2013 before this
Tribunal feeling aggrieved of denial of promotion to the post

of Under Secretary for the year 1994. By that time he was promoted with reference to the year 1995. The respondents objected to the claim of the applicant on the ground that he joined the services only in the year 1992 and the ACRs of five years which are necessary for assessment are not available.

2. The OA was allowed through order dated 26.10.2016 by referring to OM dated 10.04.1989 which is to the effect that it is not essential that ACRs of five years must be available before DPC and if it is not available, the consideration by the DPC can be on the basis of the ACRs that are available. Ultimately it was directed that the applicant shall be included in the selection list of the year 1994 and shall be placed at an appropriate place, commensurate with his seniority and he be appointed as Under Secretary with all consequential benefits. The respondents filed WP(C) No. 3213/2017 before the Hon'ble High Court of Delhi against the said order. The Writ Petition was disposed of on 04.05.2017 modifying the order in the OA to the effect that the case of the applicant shall be considered by review DPC on the basis of ACRs that are available. The remaining part of the direction issued in the OA was deleted.

3. This contempt case is filed alleging that the respondents did not implement the direction issued by the Tribunal in OA No. 645/2013, as modified in the writ petition. On behalf of the respondents it is stated that review DPC as directed by the Hon'ble Delhi High Court was conducted on 26.12.2018 to consider the case of the applicant and it was found that for inclusion in the select list of Under Secretaries for the year 1994 one should hold the post of Section Officer as on 01.07.1994 and in the instant case, the applicant completed his probation as Section Officer, only on 11.10.1994. It is stated that on this basis, the review DPC treated the applicant as not qualified.

4. We heard Sh. Saqib, learned counsel for the petitioner and Sh. Ravinder Agarwal and Sh. R.V. Sinha, learned counsel appearing for the respondent nos. 1 and 2 respectively.

5. The direction issued by the Tribunal was to include the name of the applicant in the select list for the post of Under Secretary for the year 1994 at an appropriate place. The convening of a review DPC was felt not necessary. However, the Hon'ble High Court took the view that review DPC must be conducted. It is in this context, that the review DPC was convened on 26.12.2018.

6. A perusal of the minutes of the meeting of the review DPC discloses that the date, 01.07.1994 was treated as relevant to decide the eligibility for inclusion of candidates in the select list for the year 1994 whereas the applicant completed his probation in the post of Section Officer only on 11.10.1994. In other words, the review DPC took a view that the applicant did not become a full member of the services as Under Secretary by 01.07.1994 and accordingly treated him as ineligible.

7. We have closely examined the order passed by this Tribunal in OA No. 645/2013 and found that the adjudication of this aspect has not taken place. If the applicant is of the view that the conclusion arrived at by the review DPC is not correct, he has to work out his remedies separately. We, therefore, close the contempt case leaving it open to the applicant to pursue his remedies, in accordance with law. There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman