

**Central Administrative Tribunal
Principal Bench**

OA No.1884/2019

New Delhi, this the 4th day of July, 2019

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

S.K. Bhasin, Dob: 16.06.1953
Aged 65 ½ years
S/o Late Babu Ram Bhasin
R/o C-57, Vikas Puri
New Delhi-110051.
(Retired as Director (Accounts)
on Current Duty Charge
From NDMC, Palika Kendra
Sansad Marg, New Delhi-110001) ...Applicant

(By: Applicant in person)

Vs.

New Delhi Municipal Council through
Chairman, NDMC
3rd Floor, Palika Kendra
Sansad Marg, New Delhi-110001. ...Respondent

ORDER (ORAL)

Justice L. Narasimha Reddy:-

The applicant retired from service of Delhi Municipal Corporation as Joint Pay and Accounts Officer on 30.06.2013. At that time, he was also holding the current duty charge of the post of Director of Accounts. The DPC, which considered the cases of eligible candidates for promotion to the post

of Director of Accounts, met on 12.06.2019. One Shri Sudhir Chander Singh, Joint DA/CAO was found fit. An order of promotion was issued to him on 13.06.2019. The applicant contends that Shri Sudhir Chander Singh is junior to him and that he should be promoted on notional basis from the date on which the vacancy arose.

2. Reliance is placed upon the OM dated 14.11.2014 issued by the DOP&T and the Order dated 24.05.2019 in OA No.3764/2015.

3. We heard the applicant, who argued the case in person, at length. He contends that he acquired eligibility for promotion to the post of Director of Accounts while in service, and had the respondents taken the steps for promotion in time, he would have been found fit for promotion. He further contends that once his junior is promoted, he is also entitled to be extended the benefit of notional promotion.

4. It may be true that the applicant acquired eligibility to be promoted to the post of Director of Accounts while in service. However, till 30.06.2013, the date on which the applicant retired from service,

the respondents did not convene any DPC. It was only six years thereafter, that the DPC met and considered the cases of eligible officers for promotion. Since the applicant was not in service at that time, he was not considered and one Shri Sudhir Chander Singh was promoted, through an order dated 13.06.2019.

5. The OM dated 14.11.2014 is to the effect that the cases of retired employees can be considered against the panels which fall in the years while they were in service. It is, however, made clear as under:-

“...Such retired officials would, however, have no right for actual promotion”

6. In ***Union of India and Ors. v K.K. Vadhera & Ors.*** 1989 Supp. (2) SCC 625, the Hon’ble Supreme Court held that the question of a retired employee being promoted does not arise. The only exception is that if an employee, junior to the one, who retired from service, is promoted with effect from the date, anterior to the date of retirement of senior, the latter would also be entitled to be extended the benefit of notional promotion. However, if a junior is promoted

subsequent to the date of retirement of a senior, the question of extending the benefit of notional promotion does not arise.

7. In OA No.3764/2015, the Tribunal referred to the Order in OA No.1409/2009, **P.G. George v. Union of India** and took note of the following principles enunciated therein:-

"8. xxx xxx xxx

(i) there is no rule that promotion should be given from the date of creation of the promotional post;

(ii) the promotions are effected prospectively from the date of issue of the order of promotion, retired employees would not be eligible for promotion retrospectively; and

(iii) if promotion is granted retrospectively and a person junior to the retired employees has been promoted from the date when the retired person was in service and if the retired person has been found fit by the DPC, such retired person would be entitled to promotion retrospectively on notional basis from the date his immediate junior has been promoted. This is clear from the judgment in Baijnath Sharma, as it has been paraphrased in Rajendra Roy (supra) in paragraph 16, quoted above. Moreover, it has further been clarified by the Honourable High Court in Rajendra Roy (supra) itself in paragraph 25 of the judgement, which has been quoted above."

8. The same principle was applied therein and it was directed that the applicant in that OA No.3764/2015 shall be extended the benefit of notional promotion with effect from the date on which his junior was promoted. It needs to be mentioned that the applicant in that OA retired from service on 30.11.2005 and his junior Shri M.L. Bakolia was promoted in the year 2009 but w.e.f. 01.07.2003. In the case, in hand, the junior of the applicant was promoted in the year 2019 with retrospective effect. He was not promoted with effect from the date, on which the applicant was in service.

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

(Mohd. Jamshed) (Justice L. Narasimha Reddy)
Member(A) Chairman

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