

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 3527/2014

New Delhi, this the 24th day of September, 2019

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

Shri Mangat Ram Bali
S/o Late Shri Amar Dass
R/o F-24/29, Sector-3
Rohini, Delhi-110085.

.. Applicant

(By Advocate: Shri Ambika Ray)

Versus

Union of India
Through Secretary to the Govt. of India
Department of Personnel and Training
Ministry of Personnel, Public Grievances & Pensions
North Block, New Delhi-110001.

.. Respondent

(By Advocate : Shri Manish Kumar)

O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicant retired from service of Central Secretariat Services as Director. When he was working as Under Secretary (US) in the Ministry of Heavy Industries

and Public Enterprises, a charge sheet dated 12.06.2007 was issued to him. Though his juniors were promoted to the post of Deputy Secretary (DS) on ad hoc basis w.e.f. 01.10.2007, he was not extended the benefit. The DPC for regular promotion to the post of DS met on 30.12.2008. In view of pendency of the disciplinary proceedings, the sealed cover procedure was adopted in respect of the applicant. Ultimately, through order dated 20.07.2010, the Disciplinary Authority (DA) imposed the punishment of 'reduction to a lower stage in the time scale of pay by one stage till one month, before his retirement, without cumulative effect'.

2. The applicant filed O.A. No.3223/2010, challenging the order of punishment. The O.A. was allowed by this Tribunal on 20.04.2011, and the order of punishment was set aside. As a consequence of this, the sealed cover maintained for the applicant was opened and he was promoted to the post of DS on regular basis w.e.f. 19.09.2011. Through order dated 18.07.2012, he was promoted as DS on notional basis w.e.f. 07.01.2009, the

date on which his immediate junior, Mr. Hem Chand, was promoted. Further, benefit of promotion to the post of Director was also extended to him, after conducting a DPC.

3. The applicant made a representation dated 03.09.2012, stating that he was entitled to be promoted to the post of DS w.e.f. 01.10.2007 and to be paid the difference of salary for the period between 01.10.2007 to 06.01.2009. Another plea was that he was entitled to be paid salary for the post of Director from 21.09.2010 to 10.09.2012. He submits that when his juniors were extended the benefit, there is no reason to deny him the same.

4. Respondents filed counter affidavit opposing the O.A. It is stated that the 1st period mentioned by the applicant, i.e. from 01.10.2007 to 06.01.2009, is referable to the ad hoc promotion granted to the USs, and it cannot be treated as the basis for regular promotion. As regards the 2nd period, it is stated that the

DPC cleared the case of the applicant for promotion to the post of Director only w.e.f. 18.07.2012 and he cannot claim the salary for the period, during which he did not work on that post.

5. We heard Shri Ambika Ray, learned counsel for the applicant and Shri Manish Kumar, learned counsel for the respondents.

6. The basic facts are not in dispute. The applicant was not considered for ad hoc promotion, because of service of a charge memorandum. Same situation prevailed by the time, the DPC met for regular promotion to the post of DS on 30.12.2008. The sealed cover procedure was adopted; and since an order of punishment was passed against him on 20.07.2010, the sealed cover was not opened. After the order of punishment was set aside by this Tribunal, through order dated 20.04.2011 passed in O.A. No.3223/2010, the sealed cover was opened. Initially he was promoted to the post of DS, through order dated 19.09.2011, without

any retrospective notional basis. Thereafter, the promotion on notional basis w.e.f. 07.01.2009 was extended, through order dated 18.07.2012. The applicant was also paid the arrears of salary for the post of DS reckoned from 07.01.2009.

7. The applicant placed heavy reliance upon O.M. dated 14.09.1992. As a matter of fact, the respondents have also relied upon that and reproduced extensive part thereof in the counter affidavit. It governs cases where the sealed cover procedure was adopted. We are convinced that the procedure contained therein was strictly followed in the case of the applicant.

8. The 1st part of the claim made by the applicant is for the period between 01.10.2007 and 06.01.2009. This is the period, during which his juniors functioned as DS on ad hoc basis. It hardly needs any mention that ad hoc promotion cannot be treated as regular or substantive. Neither DPC made any recommendation in that behalf nor any sealed cover procedure was adopted. The regular promotions took place only in the month of January

2009 and, at that time, the sealed cover procedure was adopted for the applicant. The applicant is not able to show us any provision of law or a binding precedent in respect of his plea that an employee, whose case overlooked for promotion, is entitled to be extended the benefit of notional promotion, covering the period of ad hoc promotion also. We do not find any merit in the plea of the applicant on this aspect.

9. The 2nd claim is referable to the post of Director. Unlike in the case for the post of DS, there is no occasion for the respondents to maintain the sealed cover in respect of the applicant. The occasion to consider the case of the applicant for the post of Director arose, only after he was promoted on regular basis, to the post of DS. It is also alleged that there is delay in extending the benefit of promotion. The fact that a junior to the applicant was promoted on regular basis to the post of DS in January 2009, and steal a march over him in promotion to the post of Director, cannot be helped. The

delay in promotion to the post of Director is not on account of any factors, attributable to the respondents.

10. We do not find any merit in the O.A. and, accordingly, the same is dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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