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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 1661/2003

New Delhi this the 11th day of February, 2004

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S.K.Naik, Member (A)

Shri H.D.Patel,
S/O Shri D.K.Patel,
R/O Qr.No.186, Sector-3,
R.K.Puram, New Delhi.
Working as Assistant Director
General (Stores), PFA Division
of DGHS (HQ), Nirman Bhawan,
New Delhi-110011

..Applicant

(By Advocate Shri R.N.Singh)

VERSUS

1. Union of India,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi
(Through the Secretary (Health))
2. The Directorate General of Health
Services, Ministry of Health and
Family Welfare, Nirman Bhawan,
New Delhi (Through Director General)
3. The Medical Stores Organisation,
D.G.H.S.West Block 1, Wing No.6,
R.K.Puram, New Delhi-110066
(Through Addl.Director General (Store))

(By Advocate Sh.V.S.R.Krishna) ..Respondents
O R D E R (ORAL)

(Hon'ble Shri Justice V.S. Aggarwal, Chairman

The applicant by virtue of the present application seeks to declare the action of the respondents as arbitrary and illegal and for a direction that he should be considered for further promotion on the basis of the ACRs. He further seeks a direction to grant promotion as Deputy Director General (Stores) w.e.f. 1.4.1995 with consequential benefits. The grievance of the applicant is that he was ignored for promotion from 1.4.1995 when his juniors were promoted and again from April 1998.

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2. The petition has been contested. It has been pointed out that the applicant was charge-sheeted for a major penalty on 6.6.1992 and as per the advice of the Central Vigilance Commission he was imposed major penalty vide order dated 28.7.2000. He had been earlier charge-sheeted for a major penalty on 22.2.1995. Applicant had filed earlier OA 1760/2001 and the charge-sheet issued against the applicant vide order dated 20.9.2001 has since been quashed.

3. Respondents contend that after the sealed cover was opened on the recommendations of the Assessment Board, the applicant was promoted from 15.11.1989, he had become eligible for the next In-Situ-Promotion from 1.4.1995. The case of the applicant was forwarded to the Union Public Service Commission for consideration of the bio-data and upto date ACRs. The applicant was considered for promotion from 1.4.1995 by the DPC held on 4.12.2002 but he was not found suitable.

4. Shri R.N.Singh, learned counsel at this stage states that keeping in view the order dated 5.8.2003 he may be permitted to withdraw the OA with liberty to challenge the same because according to him the same has been issued with ulterior intention only to deprive the applicant of the promotion due to him.

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5. We are not expressing ourselves any opinion at this stage on the other pleas taken. Prayer is allowed. OA is dismissed as withdrawn with liberty to file fresh petition. The documents against receipt can be returned if the applicant intends to do so.

SK
(S.K.Naik)

Member(A)

VS Ag
(V.S. Aggarwal)

Chairman

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