

Central Administrative Tribunal  
Principal Bench

OA No.2522/2003

New Delhi this the 18<sup>th</sup> day of May, 2004

Hon'ble Shri Shanker Raju, Member (J)  
Hon'ble Shri R.K. Upadhyaya, Member (A)

R.S. Misra  
PGT (Chemistry)  
KV Sainik Vihar  
New Delhi.

-Applicant

(By Advocate: Sh. M.K. Bhardwaj)

Versus

Union of India through

1. The Commissioner  
Kendriya Vidyalaya Sangathan  
18, Institutional Area, SJS Marg  
New Delhi-110016.
2. Joint Commissioner (Admn)  
Kendriya Vidyalaya Sangathan  
18, Institutional Area, SJS Marg  
New Delhi-110016.

-Respondents

(By Advocate: Shri S. Rajappa)

ORDER

Hon'ble Shri Shanker Raju, Member (J)

Applicant impugns respondents' order dated 4.4.2003, denying him promotion to the senior scale.

2. Applicant who was re-instated on the orders of the High Court of Delhi in LPA-116/94 decided on 4.7.2000 on re-instatement and grant of other benefits made representation for grant of senior scale which was due from 7.2.1988, which has been denied to him, giving rise to the present.

3. Learned counsel for applicant contends that despite a clean service record till 1988 applicant has not been considered and DPC has not

followed the rules. To ascertain the factual position, a direction has been issued to the respondents to produce the relevant record.

4. Learned counsel for respondents contends that on review on available record as applicant has not been found fit was not recommended.

5. On perusal of the DPC record we find that whereas due date for grant of selection scale was 2.7.88 the ACRs available were of the year 2001-02. ACR for the year 1986 shows the grading as *good*. Moreover, adverse remarks communicated to applicant in the year 1987 and the representation made against it is yet to be decided. As per the rules and instructions the consideration would have to be restricted by review DPC till 2.7.88 when applicant was still in service. Accordingly the preceding ACRs were to be taken into consideration. As this has not been done, we find non-application of mind and violation of rules and instructions by the DPC. Accordingly, OA is allowed. The impugned order is quashed and set aside. Respondents are directed to hold a review DPC strictly in accordance with rules and instructions and consider the record of applicant in view of the above directions, within a period of three months from the date of receipt of a copy of this order. If applicant is found fit he would be entitled to senior scale on consideration w.e.f.

-3-

2.7.1988 with all consequential benefits. No costs.

R. K. Upadhyaya

(R.K. Upadhyaya)  
Member (A)

S. Raju

(Shanker Raju)  
Member (J)

san.