

(9) (2)

Central Administrative Tribunal, Principal Bench

Original Application No.8 of 2003

New Delhi, this the 13th day of January, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman  
Hon'ble Mr. V. Srikantan, Member (A)

Shri B.L. Kapoor  
S/o late Shri Gian Chand Kapoor,  
Working as Store Superintendent,  
R/o C-171, Vikas Puri,  
New Delhi-18

....Applicant

(By Advocate: Shri M.L. Chawla)

Versus

1. Union of India, through  
The Secretary,  
Ministry of Defence,  
South Block, New Delhi

2. Director General Quality Assurance (Armts.)  
Department of Defence Production (Arm-1)  
Govt. of India, Ministry of Defence,  
DHQ PO,  
New Delhi-11

3. Sr. Quality Assurance Estt. (A)  
Ministry of Defence (DGQA)  
T-18 Kandhar Lines,  
New Delhi-10

.... Respondents

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

By virtue of the present application, Shri B.L. Kapoor seeks quashing of the order of 27.12.2002 and directing the respondents to maintain status quo because the applicant has just 1-1/2 years from attaining the age of superannuation.

2. Some of the relevant facts are that the applicant is serving as Store Superintendent in D.G.Q.A. in the Department of Defence Production, Govt. of India, Ministry of Defence, New Delhi. He was offered, after being selected, the post of Senior Store Superintendent on

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16.11.99. He refused/declined the promotion and this continued in the next two years.

3. Now by virtue of the impugned order passed on 27.12.2002, the applicant has been promoted and transferred to Kanpur. The order reads:

"Your representation No. Nil dated 26 Nov 2002 regarding foregoing promotion was forwarded to DGQA HQ and has been considered by DGQA HQ sympathetically and not accepted by the competent authority on the following grounds:-

(a) It has been noted that you have been refusing promotion from 1998 onwards i.e. for the last four years.

(b) The competent authority has also noted that you have been continued in the same establishment since 1976.

2. In view of the above you will be proceeding on promotion to QAE(FG), Kanpur as per the date given by you in writing."

4. Reply has been filed and taken on the record.

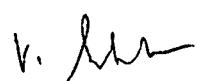
5. The sole grievance of the applicant is that he is not interested in being promoted and still is being promoted while earlier also, he has been refusing the promotion.

6. At this stage, we are not interfering into the rights of the respondents in transferring the applicant ~~or~~ <sup>to</sup> ~~promotion~~. The impugned order promotes the applicant which he is not inclined to accept. The learned counsel states that applicant is not interested in promotion and by still

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doing so, indeed he cannot be forcibly so promoted.

7. Accordingly we quash the impugned order whereby the applicant has been promoted. We do not intend to express an opinion on the rights of the respondents to transfer the applicant in accordance with law. With these observations, the O.A. is allowed.



( V. Srikantan )  
Member(A)



( V.S. Aggarwal )  
Chairman

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