

**Central Administrative Tribunal  
Principal Bench**

**OA No.3131/2019**

New Delhi, this the 21<sup>st</sup> day of October, 2019

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

Madan Mohan Gupta  
S/o late Shri Bashesher Nath Gupta  
R/o 294, Sector 37 Faridabad  
Haryana-121003. ..Applicant

(By: None)

Versus

Govt. of India through  
The Controller of General of Accounts  
Mahalekha Niyantak Bhawan  
E Block, GPO Complex INA  
New Delhi-110023. ..Respondent

(By Advocate: Shri Hanu Bhaskar)

**ORDER (ORAL)**

**Justice L. Narasimha Reddy:-**

The applicant retired from the office of the Controller General of Accounts, Govt. of India on 28.02.1994 as Group 'B' officer on attaining the age of superannuation. His case is that while he was in service, he was considered by the UPSC for promotion to Class-I post of Indian Civil Accounts Service (ICAS)

and though he was selected by the UPSC, he was not issued orders of promotion till he retired from service. He went on corresponding with the respondents on this issue.

2. In reply to a representation dated 16.02.2018, submitted by him, the respondents replied on 12.04.2018 stating that though he was interviewed by the Selection Committee on 02.02.1994, the Minutes thereof, were approved and forwarded to the department on 03.03.1994 and by that time, he retired from service. It was also stated that the benefit of notional promotion also cannot be extended to him since none of his juniors were promoted to the higher post, with effect from any date earlier to his retirement. This OA is filed with the following prayers:-

"I pray that notification of promotion to JTS of ICAS might be issued on 2/2/94 and should take effect from 1/4/87. The promotion has been approved by the UPSC under the UPSC regulations 1958 as explained in Para 5 above."

3. The OA is filed in person. Through a letter addressed to the Registry, the applicant expressed his inability to come and argue the case and requested that

the record may be perused and the matter may be decided.

4. We took the assistance of Shri Hanu Bhaskar, learned counsel for the respondents and analysed the facts of the case. We have also perused the record.

5. The applicant retired as Group 'B' officer on 28.02.1994. It may be true that he appeared before the DPC for promotion to the post of JTS of ICAS on 02.02.1994. The fact, however, remains that the approved minutes of the DPC were received by the department only on 03.03.1994. By that time, the applicant retired from service. Therefore, the respondents could not issue order of promotion to him.

6. The promotion cannot be with effect from any retrospective effect. The only exception is where an officer, who was otherwise due for promotion, was deferred on account of the reasons such as pendency of departmental proceedings, his juniors were promoted in the meanwhile, and at a later stage, the impediment ceased to exist. In such cases, sealed cover procedure is adopted and soon after the impediment ceases to

exist, the benefit of promotion would be extended to such officer with effect from the date, on which his juniors were promoted, provided he was found fit by the DPC. This again, is subject to the condition that he is in service by that date. If he retires from service, the notional benefit would be extended, in case his juniors were promoted with effect from a date, which is earlier to that of his retirement.

7. By applying whatever principle that is relevant in this context, the applicant cannot be extended the benefit of notional promotion. When the notional promotion w.e.f. 02.02.1994 itself is untenable, the question of treating it from 1987, does not arise. At any rate, there is delay of a quarter century. By any standard, the issue cannot be dealt with, at this stage.

7. The OA is accordingly dismissed. There shall be no order as to costs.

**(Mohd. Jamshed)**  
**Member(A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

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