



Item No. 55 (C-3)

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O.A. No. 3694/2022



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A. No. 3694/2022

This the 08th day of July, 2025

Hon'ble Mrs. Pratima K Gupta, Member (J)
Hon'ble Dr. Chhabilendra Roul, Member (A)

1. All India Civil Accounts Officer (Sr. Accounts Officer and Pay & Accounts Officer) Association through its President Sh. H.C. Mathpal
Aged about 57 years
House No.H-405, Street No.4
Raj Nagar, Part-II, Palam Colony
Delhi-110077
2. Sh. Umesh Chandra Joshi
Aged about 50 years
S/o Sh. R.D. Joshi
R/o C-51, South Moti Bagh
New Delhi-110021

...Applicants

(By Advocate: Mr. Ankur Chhibar with
Mr. Nikunj Arora)

Versus

1. Union of India through
Secretary
Ministry of Finance
Department of Expenditure
North Block, New Delhj-110001
2. Controller General of Accounts
Department of Expenditure,
Ministry of Finance
Mahalekha Niyantak Bhawan
E Block, CGO Complex
INA, New Delhi-110023
3. Secretary
Department of Personnel & Training
Ministry of Personnel, Public Grievance & Pensions
North Block, New Delhi-110001

....Respondents

(By Advocate: Mr. Ramjan Khan)





ORDER (ORAL)

Hon'ble Mrs. Pratima K Gupta, Member (J)

The applicants who are working as Pay & Accounts Officers (PAO) aspire to be promoted to the post of Section Accounts Officers. The relevant Recruitment Rules are of the year 2000, placed at page no. 38 of the Original Application. In terms of the provisions of the Recruitment Rules under column 12, on completion of two years of regular service, the employee is entitled to be considered for promotion to the post of Senior Accounts Officer. On 31.10.2019, the post of Senior Accounts Officer was classified as Group 'A' post, w.e.f 09.04.2009. (page no. 41 of the Original Application). The process for promotion for the applicants was initiated by the respondents on 12.09.2019. However, the classification was notified, w.e.f., 04.04.2009. The proposal was sent by the respondents on 20.02.2020, to the UPSC, placed at page no. 55 of the Original Application to seek exemption from their consultation. In turn, the UPSC advised to consult the DOP&T. A communication was sent to the DOP&T, which clarified vide its communication dated 10.11.2021 that the department may carry out amendments at first in the existing RRs/frame RRs for the post of Sr. AO and that in





absence of the new amendment of rules, promotion cannot be taken forward. Aggrieved by the same, the applicants preferred the instant Original Application seeking the following relief(s):-

“(i) quash and set aside the decision of the respondents in not holding the DPC based upon the existing Recruitment Rules and wait for amendment of the Recruitment Rules;

“(ii) direct the respondents to convene the DPC and consider the case of the members of the applicant no.1 Association and also applicant no.2 for promotion to the post of Sr. Accounts Officer in terms of existing Rules and Instructions and award promotion w.e.f. due date by filling up the vacancies of the vacancy 2019-20, 2020-21 and 2021-22 and also complete the process of promotion as initiated in terms of OM dated 12.09.2019;

“(iii). May also pass any further order(s), direction(s) as be deemed just and proper to meet the ends of justice.”



2. Learned counsel for the applicants submits that in the interregnum, the post of Pay & Accounts Officer and Senior Accounts Officer were merged by order dated 18.09.2023, w.e.f., 26.04.2023, placed at page no. 41 of the reply filed by the respondents on 12.05.2023. He submits that both the posts, i.e., the post of Pay & Accounts Officer and the Senior Accounts Officer against which the applicants are seeking promotion were merged and became classified under Group-A. He submits, the applicants became entitled to be considered for promotion strictly on completion of two years of regular service as Pay & Accounts Officers in terms of the Recruitment Rules of the year 2000. The applicants cannot be allowed to suffer endlessly by not convening of the DPC



and *inter-se* communication between the UPSC and the DOP&T. He submits that the vacancies against which the applicants are entitled to be considered for promotion relate back to the time when classification of the post of Senior Accounts Officer as Group-A was not notified i.e. in the year 2019 itself. The Rules could not be amended for the year 2019/2020 as the Rules of the year 2000 are in vogue even today, while the Original Application is being heard. The applicants have been deprived of their legitimate right to be considered for promotion, for the reason, that the Rules are not being amended by the respondents. He submits that from the year 2019 till 2023, i.e., prior to the merger, the applicants are entitled to be considered for promotion under the Recruitment Rules of the year 2000, after seeking exemption from the UPSC for their consideration. He places reliance upon the decision of the co-ordinate Bench of the Tribunal at Lucknow in O.A. No. 332/2024 decided on 01.07.2025, wherein in identical circumstances the co-ordinate Bench has extended the relief(s) in favor of the applicants. He relies upon paras 4.3 and 7 onwards of the same, which are reproduced herein below:-



“4.3 Thereafter, a reference was made to UPSC vide letter dated 13.03.2020 for clarification whether the induction of Sr AOs at JTS level of ICAS will be continued even after classification of the post of Sr AO as Group 'A' although both posts are at the same level with same classification. In response, UPSC, vide letter dated 28.05.2020, advised consultation with DoPT. Vide their ID Note dated 03.11.2023, DoPT pointed out inter alia



that the Recruitment Rules (RRs, hereafter) for the post of Sr AO had not been amended for the last 4 years and the ICAS Rules had also not been changed; thus in RRs for the post of Sr AO, Sr AO has been classified as Group B post and also in the promotion criteria prescribed in ICAS Rules for induction of JTS, the feeder grade as Sr AO (Group B). DoPT further advised consultation with Department of Legal Affairs (DoLA, hereafter). DoLA, vide ID Note dated 14.03.2024, opined that induction of Sr AO of erstwhile CCAS (Group B) into ICAS shall be as per extant RRs and that administrative instructions cannot modify the conditions of service of those employees who are governed by a statute or statutory rules and further that to facilitate induction of Sr AO of erstwhile CCAS (Group B) into ICAS may warrant amendments in the relevant RRs provided that such amendments should not take away the vested rights of the persons.

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7. The legal position regarding the right to consideration for promotion is well settled and has been recapitulated on 23.07.2024 by Hon'ble Supreme Court in *Bihar State Electricity Board & Ors vs Dharamdeo Das (Civil Appeal No. 6977 of 2015)* in the following terms:

18. It is no longer res integra that a promotion is effective from the date it is granted and not from the date when a vacancy occurs on the subject post or when the post itself is created. **No doubt, a right to be considered for promotion has been treated by courts not just as a statutory right but as a fundamental right, at the same time, there is no fundamental right to promotion itself.** In this context, we may profitably cite a recent decision in *Ajay Kumar Shukla vs. Arvind Rai (2022) 12 SCC 579* where, citing earlier precedents in *Director, Lift Irrigation Corporation Ltd. vs. Pravat Kiran Mohanty and Others (1991) 2 SCC 295* and *Ajit Singh and Others vs. State of Punjab and Others (1999) 7 SCC 209*, a three Judge Bench observed thus:

41. This Court, time and again, has laid emphasis on right to be considered for promotion to be a fundamental right, as was held by K Ramaswamy, J., in *Director, Lift Irrigation Corpn. Ltd. v. Pravat Kiran Mohanty and Others* in para 4 of the report which is reproduced below:

"4..... There is no fundamental right to promotion, but an employee has only right to be considered for promotion, when it arises, in accordance with relevant rules. From this perspective in our view the conclusion of the High Court that the gradation list prepared by the corporation is in violation of the right of respondent- writ petitioner to equality enshrined under Article 14 read with Article 16 of the Constitution, and the respondent-writ petitioner was unjustly denied of the same is obviously unjustified."





42. A Constitution Bench in *Ajit Singh and Others v. State of Punjab and Others*, laying emphasis on Article 14 and Article 16(1) of the Constitution of India held that if a person who satisfies the eligibility and the criteria for promotion but still is not considered for promotion, then there will be clear violation of his/her's fundamental right. Jagannadha Rao, J. speaking for himself and Anand, C.J., Venkataswami, Pattanaik, Kurdukar, JJ., observed the same as follows in paras 22 and 27 :

"Articles 14 and 16(1): is right to be considered for promotion a fundamental right

22. Article 14 and Article 16(1) are closely connected. They deal with individual rights of the person. Article 14 demands that the 'State shall not deny to any person equality before the law or the equal protection of the laws'. Article 16(1) issues a positive command that:

'there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State'.

It has been held repeatedly by this Court that clause (1) of Article 16 is a facet of Article 14 and that it takes its roots from Article 14. The said clause particularises the generality in Article 14 and identifies, in a constitutional sense "equality of opportunity" in matters of employment and appointment to any office under the State. The word "employment" being wider, there is no dispute that it takes within its fold, the aspect of promotions to posts above the stage of initial level of recruitment.

Article 16(1) provides to every employee otherwise eligible for promotion or who comes within the zone of consideration, a fundamental right to be "considered" for promotion. Equal opportunity here means the right to be "considered" for promotion. If a person satisfies the eligibility and zone criteria but is not considered for promotion, then there will be a clear infraction of his fundamental right to be "considered" for promotion, which is his personal right.

"Promotion" based on equal opportunity and seniority attached to such promotion are facets of fundamental right under Article 16(1).

.....

27. In our opinion, the above view expressed in *Ashok Kumar Gupta Ashok Kumar Gupta v. State of U.P.* (1997) 5 SCC 201], and followed in *Jagdish Lal /Jagdish Lal v. State of*





Haryana(1997) 6 SCC 538], and other cases, if it is intended to lay down that the right guaranteed to employees for being "considered" for promotion according to relevant rules of recruitment by promotion /i.e. whether on the basis of seniority or merit) is only a statutory right and not a fundamental right, we cannot accept the proposition. We have already stated earlier that the right to equal opportunity in the matter of promotion in the sense of a right to be "considered" for promotion is indeed a fundamental right guaranteed under Article 16(1) and this has never been doubted in any other case before Ashok Kumar Gupta (Ashok Kumar Gupta v. State of U.P.), right from 1950."

(emphasis supplied)

Thus, while there is no right to promotion, there is indisputably the right to be considered for promotion in accordance with relevant rules. Admittedly, the respondents have not been able to convene meeting of DPC after 2019 for considering the case of applicants for promotion. In our view, the delay in convening the DPC infringes the right of the applicants to be considered for promotion. We may add that the facts and circumstances of **Narendra Singh Negi (supra)** and **Gurcharan Singh (supra)** cited by the respondents are different from the instant case in that those OAs pertained to retired employees who could not be promoted due to non-availability of vacancies.

8.1 Coming to the ICAS Rules, it is noted that Schedule-II of ICAS Rules has the following provision for promotion of Sr AO:

S. No	Name of the Post/Grade/Scale	Method of Recruitment	Field of Selection and the minimum qualifying service for promotion
1.	Junior Time Sclae (Rs. 8,000-275-13500)	(i)66.67% by direct recruitment on the basis of Civil Services Examination. (ii) Remaining 33.33% by promotion in consultation	Senior Accounts Officers, in Group 'B' of the Central Civil Accounts Service with 5 years' combined





		with Union Public Service Commission.	regular service as Senior Accounts Officer (Rs. 8000-13500) and Pay & Accounts Officer (Rs. 7500-12000) as on 1 st January of the year.
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(emphasis supplied)

It is noted that the pay scales in JTS and Sr AO (Group B) are the same.

8.2 Turning to OM dated 31.10.2019, the following position is noted therein:

“Subject: Classification of post of Senior Accounts Officer in Central Civil Accounts Service - reg.

In pursuance of Ministry of Finance, Department of Expenditure I.D. Note No. A-12034/7/2014-Ad.I dated 25.10.2019 issued with the approval of Hon'ble Finance Minister, **the post of Senior Accounts Officer in Central Civil Accounts Service is classified as Group 'A' post w.e.f. 09.04.2009 without any change in Pay Level.**

2. All settled cases /such as promotions to the post of Senior Accounts Officer, induction into ICAS, disciplinary cases, etc.) will not be reopened. **The attendant benefits such as consultation with UPSC for promotion, change in disciplinary authority, contribution to CGEGIS etc. will be effective from the date of issue of order for classifying the post of Senior Accounts Officer as Group 'A'.**”

(emphasis supplied)

It follows from the OM quoted above that the attendant benefits, including consultation for promotion, will be effective from the date of classification of Sr AO as Group A.

8.3 We are refraining from commenting on the merits, or otherwise, of amendment of ICAS Rules being considered by the respondents in view of OM dated 31.10.2019 as it is a policy matter. Suffice it to say that the respondents have the liberty to amend the ICAS





Rules, with or without retrospective effect, in a lawful manner. However, such an exercise cannot delay the consideration of applicant's promotion inordinately as discussed in paragraph 7 above.

8.4 In our view, the ICAS Rules hold sway irrespective of the OM dated 31.10.2019 in terms of the following observations of Hon'ble Supreme Court in **Union of India vs Somasundram Viswanath & Ors 1988 AIR SC 2255**:

"It is well settled that the norms regarding recruitment and promotion of officers belonging to the Civil Services can be laid down either by a law made by the appropriate Legislature or by rules made under the proviso to Article 309 of the Constitution of India or by means of executive instructions issued under Article 73 of the Constitution of India in the case of Civil Services under the Union of India and under Article 162 of the Constitution of India in the case of Civil Services under the State Governments. If there is a conflict between the executive instructions and the rules made under the proviso to Article 309 of the Constitution of India, the rules made under the proviso to Article 309 of the Constitution of India prevail, and if there is conflict between the rules made under the proviso to Article 309 of the Constitution of India and the law made by the appropriate Legislature the law made by the appropriate Legislature prevails."

(emphasis supplied)

9. In conclusion, the applicants have the right to be considered for promotion and the exercise of convening the DPC for promotion cannot be held up indefinitely by the respondents.

10.1 In view of the foregoing, the respondents are directed to convene the DPC for considering the promotion of the applicants as per rules within three months of receipt of certified copy of this order.

10.2 Pending MAs, if any, are also disposed of.

10.3 The Parties shall bear their own costs.

3. Additionally, he draws strength from the decision of a co-ordinate Bench of this Tribunal in O.A. No. 2010/2022 dated 01.05.2024, placed at page no. 15 of the rejoinder filed by the applicant, wherein one of us is a Member.





4. Sh. Ramjan Khan, learned counsel for the respondents vehemently opposes the Original Application. He draws strength from the counter reply and submits, the cause of the applicants was presented before the Department of Expenditure, Ministry of Finance for seeking exemption from consideration of the UPSC. The Department of Expenditure vide ID Note dated 23.11.2021 informed that the DOP&T has opined that unless the Recruitment Rules are amended, the applicants cannot be promoted to the post of Senior Accounts Officer in the absence of consideration of the UPSC. For the sake of better appreciation, the communication dated 23.11.2021, placed at page no. 32 of the reply filed by the respondents is reproduced herein below:-



"Subject: Promotion of Pay & Accounts Officer (in Pay Level 9) to the grade of Senior Accounts Officer Group 'A' (Pay Level-10) in Central Civil Accounts Service (CCAS)-Exemption from consultation with UPSC - regarding

O/o CGA may refer to their proposal on the above mentioned subject submitted vide I.D. Note No. A K-19/1/2020-Group B-CGA-Part(1)/51 dated 17.05.2020 and I.D. Note of even number 417 dated 21.01.2021.

2. It is stated that the above proposal was referred to DoP&T with the request to grant exemption from consultation with UPSC for considering promotion of PAOs to the post of Sr. A.O. as per existing RRs for the vacancy year 2020.

3. In response, DoP&T vide their I.D. Note dated 10.11.2021 has stated that the proposal is not found to be feasible, as no RRs exist for the post of Sr. AO re-classified as Group 'A'. DoP&I has requested to first carry out amendments in the existing RRs/frame RRs for the post of Sr. AO and then, if required, may refer the proposal along with UPSC's comments, to DoP&T with the approval of the competent authority.



4. A copy of aforesaid DoP&T's I.D. Note dated 10.11.2021 is forwarded herewith for examining further course of action in the matter."

5. Heard learned counsels for the parties in great detail.

6. The facts that have been reproduced hereinabove are not in dispute. The controversy before us is that if the applicants are entitled for consideration to the post of Senior Accounts Officer between the year 2019/2023, i.e., the period when the post of Senior Accounts Officer was classified as Group 'A' and subsequently, merged with the post of Pay & Accounts Officer on 18.09.2023. The relevant Recruitment Rules applicable were of the year 2000. Column 12 of the Recruitment Rules clearly establish that on completion of two years of regular service as Pay & Accounts Officers, the applicants were entitled to be considered for promotion. The only impediment is that since the post of Senior Accounts Officer has been classified as Group 'A' and, therefore, the consideration of UPSC is needed. The respondents have already sought exemption from the UPSC. In terms of the communication of UPSC, the cause of the applicants cannot be denied by the respondents. The classification of the post of Senior Accounts Officer as Group 'A' is by way of executive instructions while the claim of the applicants arises the statutory Recruitment Rules and,





therefore, the executive instructions cannot prevail upon the statutory rules.

7. We have examined the facts in the instant Original Application in the light of the decision of a co-ordinate Bench at Lucknow in O.A. No. 534/2024 decided on 01.07.2025. We arrive at the conclusion that the facts in the instant Original Application are not just similar rather identical to the facts of O.A. No. 534/2024 of co-ordinate Bench at Lucknow decided on 01.07.2025. The relevant portion has already been reproduced hereinabove.

8. Upon similar facts, the co-ordinate Bench in O.A. No. 2010/2022, wherein one of us was a Member has also taken a similar view as taken by a co-ordinate Bench at Lucknow. For the sake of better appreciation, the relevant portion of the decision in O.A. No. 2010/2022 dated 01.05.2024, is reproduced herein below:-

"18. We find that on earlier occasions when this OA came up for consideration, interim direction has been issued on 18.03.2023 as also on 24.04.2023 to obtain instructions on the issue of cadre review specifically an answer to the query whether notification after obtaining the approval of competent authority has been issued or not for reduction of the cadre strength from 80 to 50. It has been more than one year but clarification on the issue is not forthcoming. Therefore, we are not inclined to give more time by way of adjourning the matter especially since it is a part-heard matter and extensive arguments have been heard and recorded on 06.03.2024. Moreover, we find that the name of the applicants figures in the gradation list of officers in the grade of Senior Chemist who are eligible in terms of recruitment rules for Superintending Chemist.





19. Therefore, the present OA is disposed of with a direction to the competent authority amongst the respondents that the claim of the applicants for promotion to the post of Superintending Chemist be considered against the vacancies of the year on which they attained such eligibility in terms of the recruitment rules in accordance with the rules including placing the entire matter before the appropriate DPC. We would like to add that our direction is for consideration at the relevant time when they attained eligibility, however, the competent authority, including the DPC, is obliged to consider the claim in accordance with the extant rules and after ascertaining the fitness of each of the applicants for such a promotion.

20. The directions contained above shall be complied with within a period of 12 weeks from the date of receipt of the certified copy of this order. Pending MAs, if any, shall stand disposed of."

9. For the reasons detailed hereinabove and in light of the decision of a co-ordinate Bench as reproduced hereinabove, the OA is disposed of with the direction to the competent authority amongst the respondents that the claim of the applicants for promotion to the post of Senior Accounts Officer be considered against the vacancies of the year on which they attained their eligibility, strictly in terms of the Recruitment Rules of the year 2000, by placing their names before the appropriate DPC. In case the recommendations of the DPC find favor to the applicants, they would be promoted against the vacancy years for which they were eligible and recommended for promotion. The applicants would be entitled to all the consequential benefits arising from this Order *albeit* on notional basis.





10. The Order shall be complied with within a period of twelve weeks from the date of receipt of a certified copy of the order.

11. Accordingly, the OA is disposed of. All pending MAs, if any, shall also stand disposed of.

12. There shall be no order as to costs.



(Dr. Chhailendra Roul)
Member (A)

(Pratima K Gupta)
Member (J)

/aks/

प्रमाणित किया जाता है कि यह, कंस फाइल नं. ए. आर. ए./
1. ए. / सी. पी. एम. ए. / पी. टी. संख्या..... 200) के
प्रस्ताव/आदेश की सही और शुद्ध प्रति है और इस में
किसी भी त्रुटि/संशोधन के लक्षणों के बिना
एक निष्ठापूर्वक प्रतिलिपि है।

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OA 3694/2022

अनुप्रमाणित / ATTESTED

Pratima K Gupta

अनुभाग अधिकारी (न्यायिक)
Section Officer (Judicial)
केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal
प्रधान न्यायपीठ, नई दिल्ली
Principal Bench, New Delhi

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- 2) Serial No. of the copy application
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- 7) पृष्ठों की संख्या
- 8) No. of pages
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H.C. Mathpal

10.7.2025
P-14 urgent

Rs- 28/-

30.7.2025