



Sr. No.	Date	Orders
*	+	<p style="text-align: right;">①</p> <p>IN THE HIGH COURT OF DELHI AT NEW DELHI</p> <p style="text-align: center;">CW-6901/2002</p> <p>JAGDISH <span style="float: right;">..... Petitioner</span>  <span style="float: right;">Through Mr. Suresh Bisara,</span>  <span style="float: right;">Adv.</span></p> <p style="text-align: center;">versus</p> <p>CHIEF COMM. INCOME TAX &amp; ANR <span style="float: right;">..... Respondents</span>  <span style="float: right;">Through Mr. R.D. Jolly and Mr.</span>  <span style="float: right;">S.C. Sharma, Adv.</span></p> <p>CORAM:  MON'BLE MR. JUSTICE ANIL DEV SINGH  MON'BLE MR. JUSTICE R.S. SODHI</p> <p style="text-align: center;"><u>ORDER</u>  -----  29.10.2002</p> <p>This writ petition is directed against the order of the Central Administrative Tribunal, Principal Bench, Delhi (hereinafter referred to as "the Tribunal") in OA No. 2718/1999.</p> <p>The petitioner was regularised as UDC on 2nd March, 1994. The petitioner claims that he should have been promoted as UDC with effect from 12th April, 1996. The claim was rejected by the respondents on the ground that by 12th April, 1996 the petitioner had not completed three years of regular service as LDC and therefore was not eligible for the post of UDC as on that date. It needs to be noted that the petitioner</p>
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Sr. No.	Date	Orders
		<p data-bbox="411 320 1477 607">was given regular promotion with effect from 20th November, 1999. The petitioner feeling aggrieved by the failure of the respondents to promote him with effect from 12th April, 1996 filed OA being OA No. 2718/1999 before the Tribunal.</p> <p data-bbox="411 638 1477 1055">The Tribunal took the view that since the petitioner had not completed three years of regular service as LDC he was not eligible for being promoted as UDC with effect from 12th April, 1996. The Tribunal, accordingly, rejected the OA. The petitioner not being satisfied with the order passed by the Tribunal has filed the instant writ petition.</p> <p data-bbox="411 1086 1477 1816">It is not disputed that a LDC with three years regular service is eligible for being promoted as UDC. The petitioner did not have three years regular service as LDC and therefore could not be promoted as UDC with effect from 12th April, 1996. The Tribunal, therefore, was right in its conclusion that as on 12th April, 1996 the petitioner did not qualify to be appointed as UDC. The Tribunal also noted that the persons senior to the petitioner were not promoted with effect from 12th April, 1996 and in case the petitioner was so promoted, he would become senior to those who were appointed earlier to him.</p> <p data-bbox="411 1848 1477 1951">Learned counsel appearing for the petitioner submitted that Madan Singh and Amit Dayal, who were</p>

C-46901/2002



3

3

Sr. No.	Date	Orders
		<p style="text-align: right;"><i>C. U. 6901/2002</i></p> <p>junior to the petitioner were promoted as UDCs earlier to the petitioner. On their analogy the petitioner claims that he should be given promotion with effect from 12th April, 1996. We have considered the submissions of the learned counsel for the petitioner. It is not claimed that Madan Singh and Amit Dayal had not completed three years of regular service against the post of LDC as on 12th April, 1996. In the case of Madan Singh it is asserted by the petitioner that he was transferred from Rajasthan at his own request and was accordingly placed at bottom of the seniority list. This may be so but the question is whether he could be promoted as UDC and whether he had completed three years of regular service as LDC before he was promoted. The Tribunal noting the stand of the petitioner in regard to the promotion of Madan Singh observed as follows:</p> <p style="text-align: center;">"Applicant relies upon the case of one Madan Singh, who was granted inter charge transfer from Rajasthan to Delhi on 21.5.1995. By respondents order dated 24.5.1995 (Annexure RA-II) one time relaxation was given in the Recruitment Rules for his promotion as UDC against "diverted" vacancies if so available, by counting the service rendered by him in the previous charge, provided he was otherwise eligible and provided that all other LDCs in Delhi charge had already been considered and promoted as UDCs. He was promoted as UDC in the meeting of the DPC's recommendation dated 27.11.1995."</p>


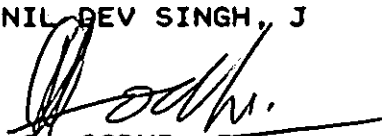


Madan Singh

Sr. No.	Date	Orders	Date
		<p>There is nothing wrong with the above view of the Tribunal as it is/was not the stand of the petitioner that Madan Singh did not have three years regular service as LDC and therefore he could not be promoted as UDC earlier to the petitioner. Insofar as Amit Dayal is concerned, his example was not even cited before the Tribunal.</p> <p>During the course of arguments the learned counsel for the petitioner only relied on the illustration of the aforesaid two persons and did not refer to any other instance, where somebody junior to the petitioner was promoted as UDC.</p> <p>Assuming Madan Singh and Amit Dayal were given promotion in violation of the rules, the question is whether following their example the petitioner can also claim promotion by compelling the respondents to breach the rules. The answer lies in the adage: Two wrongs do not make a right. In case the petitioner is allowed to be promoted with effect from 12th April, 1996, it would amount to compounding the wrong. Therefore the petitioner cannot take advantage of the promotions made in violation of the rules by seeking his promotion on that analogy. In case the petitioner was aggrieved of the promotion given to Madan Singh and Amit Dayal, he should have challenged the same.</p>	<p>6/9/2002</p>



5

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		<p style="text-align: right;">CN 6901/2002</p> <p>Learned counsel for the petitioner submitted that the petitioner had rendered adhoc service prior to 2nd March, 1994 and his adhoc service ought to have been taken into account for the purposes of determining length of service rendered by him as LDC. The Tribunal relying upon the judgments of the Supreme Court in <u>Direct Recruit Class-II Engineering Officers' Assn. Vs. State of Maharashtra</u>, (1990) 2 SCC 715 and <u>State of West Bengal and Others Vs. Ashore Nath Dey and Others</u>, (1993) 3 SCC 371, rejected the contentions of the petitioner. Learned counsel for the petitioner however referred to the judgment of the Supreme Court in <u>B.D.Verma Vs. Union of India</u>, (1997) 10 Supreme Court Cases, 433. That decision was rendered on its own fact situation and has no resemblance with the case in question.</p> <p>We do not find any infirmity in the orders passed by the Tribunal. Accordingly, the writ petition is dismissed.</p> <div style="text-align: right;">             ANIL DEV SINGH, J              R.S. SODHI, J         </div> <p>OCTOBER 29, 2002 dr</p>