

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
SERVICES DEPARTMENT (SERVICES-I BRANCH)
DELHI SECRETARIAT, 5TH LEVEL, 'B' WING,
I.P. ESTATE, NEW DELHI - 110002
(<http://services.delhigovt.nic.in>)

No.F.55/20/2022/S-I/3516-3524

Dated: 22-12-2022

ORDER

Whereas, Services Department vide letter/circular dated 21.09.2021 had initiated the process of promotion of Grade-II (DASS) to the post of Grade-I (DASS) wherein the name of the Sh. Shyam Sunder, Grade-II (DASS) was under the consideration zone;


And whereas, the Principal Accounts Office, GNCTD vide letter No. F.46(8)/Promotion/Gr.II/2011/Pr.AO/AI/2442 dated 18.10.2021 sent the service particulars viz. Service Particular Proforma, Integrity Certificate and Vigilance Clearance in respect of the said Sh. Shyam Sunder, Grade II (DASS) duly signed by the Sr. Accounts Officer (Admn) along with the Vigilance Clearance at HQ Level. In Vigilance Report in respect of the said official, the Pay & Accounts Officer has mentioned that "*no vigilance case or disciplinary proceeding or criminal proceeding is pending against the official*";

And whereas, on the basis of the above service particulars provided by Principal Accounts Office, the case of Sh. Shyam Sunder, Grade II (DASS) [D.O.B. - 01.03.1969, Seniority No - 9486] was considered by DPC in its meeting held on 27.12.2022 and recommended his case for promotion to the post of Grade-I (DASS). Consequently Sh. Shyam Sunder, Grade II (DASS) was promoted to the post of Grade-I (DASS) vide Order No. 28 dated 11.01.2022. The benefits of promotion were admissible notionally with effect from 01.01.2022 and actual benefit of promotion was admissible with effect from date of joining as Grade-I (DASS). Further, it was clearly mentioned in the said promotion order that "*The Head of Departments concerned should ensure that above-mentioned officers are clear from vigilance angle before relieving them to take up their new assignment as Grade-I (DASS) and if any of the above officer(s) is/are not clear from vigilance angel or has resigned/relieved/expired etc., the same should be brought to the notice of this department immediately*;

And whereas, the Directorate of Vigilance vide their letter No F.7(A)/09/2019/DOV/1921-22 dated 02/03/2022 forwarded therewith a list of Non-Gazetted officials of DASS Cadre involved in Registrar Cooperative Societies cases and the name of Sh. Shyam Sunder was mentioned in the said list;

And whereas, this department sought the requisite information from Dte. of Vigilance for taking further necessary action in the matter vide letter dated 13.07.2022 and its subsequent reminder dated 07.09.2022;

And whereas, Directorate of Vigilance vide letter No. F.7(A)/09/2019/DOV/12706/1084 dated 19.10.2022 and F.7(A)/09/2019/DOV/14010/1155 dated 14.11.2022 forwarded supporting documents in respect of Sh. Shyam Sunder whose name was included in the list of RCS matters circulated


22.12.22

by DOV vide letter dated 02.03.2022. The information provided by DOV is given as under:-

Sl. No.	RC No.	Name of CGHS	Status
a.	CBI RC-13(S)/2006/SCB-II/DLI/	M/s Gulshen-e-Iqbal CGHS	CBI recommended RDA Major Penalty against accused Shyam Sunder Chhabra, the then Dealing Assistant and presently Grade-IV/DASS, Branch SDM Chanakyapuri/Collector of stamps, New Delhi. DOV intimated that letter sent to Div. Commissioner, Revenue Department to reconstruct the file. Necessary records have been forwarded to Revenue Department.
b.	CBI RC-14(A)/2006/SCU.V/S CR-II/CBI/N. Delhi dated 29/09/2006	Sarvakalyan CGHS	CBI recommended prosecution of Sh. S.S. Chhabra (A-5) after obtaining sanction for prosecution from the Competent Authority. DOV intimated that as per e-court India services, the case is now re-listed for arguments on charge on 23/09/2022.
c.	CBI-RC-DAI-2006-A-0047 dated 30/11/2006	Asha Deep CGHS	CBI recommended prosecution of Sh. Shyam Sunder Chhabra, the then Area Inspector, (LDC), South West Zone O/o RCS, New Delhi presently UDC O/o Dy. Commissioner, New Delhi Distt. u/s 120-B IPC r/w 420, 468, 471 IPC and 13 (2) r/w 13(1) (d) of the PC Act, 1988. DOV intimated that as per website of High Court of Delhi in W.P(Cr)1441/2019 and CRL.MA.10572/2019(Stay), the petitioners have been acquitted of the charges framed against them under the Prevention of Corruption Act, 1988 by the learned Special Judge and the writ petitions are dismissed as withdrawn and disposed of.
d.	RC-18 (A)/2006/SCU.V/SCR.II/CBI/Delhi U/S 120B/420/471 IPC & PC Act	Ashraya CGHS Ltd.	DOV has intimated that file is submitted in CBI Court.

And whereas, para 7 of DoPT's O.M dated 14/09/1992 which is reproduced hereunder, stipulates that :-

"A Government servant, who is recommended for promotion by the Departmental Promotion Committee but in whose case any of the circumstances

mentioned in para 2 above arise after the recommendations of the DPC are received but before he is actually promoted, will be considered as if his case had been placed in a sealed cover by the DPC. He shall not be promoted until he is completely exonerated of the charges against him and the provisions contained in this OM will be applicable in his case also";

And whereas, as per M/o Finance O.M. dated 14.03.1963, the orders of notification of promotion or appointment of a government servant should be cancelled as soon as it is brought to the notice of the appointing authority that such a promotion or appointment has resulted from a factual error and the Govt. servant concerned should, immediately on such cancellation, be brought to the position which he would have held but for the incorrect order of promotion or appointment;

And whereas, reference is also invited to para 2 of DoPT's O.M. dated 14.09.1992 which is reproduced hereunder:-

"At the time of consideration of the cases of Government servant for promotion details of Government servant in the consideration zone for promotion falling under the following category should be specifically brought to the notice of the Departmental Promotion Committee.

- i) Government servants under suspension
- ii) Government servants in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending: and
- iii) Government servants in respect of whom prosecution for criminal charge is pending";

And whereas, as per CCS (Conduct) Rules, every Govt. servant shall maintain absolute integrity and is required to report any material fact affecting his service conditions to his department concerned, viz., pending criminal case/departmental proceedings initiated in other department. Further, the official was aware that the process of his promotion was undergoing and vigilance clearance is a pre-requisite for considering his case for promotion, but Sh. Shyam Sunder did not inform the concerned administrative department and also the cadre controlling department about pending disciplinary proceedings/criminal proceedings against him;

And whereas, despite of above facts, Sh. Shyam Sunder, Grade-II (DASS) was relieved from the post of Grade-II (DASS) and joined as Grade-I (DASS) in Principal Accounts Office (for pay purpose in Dte. of Education and assumed the duties of the post of Grade-I (DASS) on promotion;

And whereas, it has now become clear and evident that DPC in its meeting held on 27.12.2021 was not apprised of the fact about the recommendations of CBI for initiation of RDA in M/s Gulshen-e-Iqbal CGHS CBI RC-13(S)/2006/SCB-II/DLI/, prosecution in Sarvakalyan CGHS CBI RC-14(A)/2006/SCU.V/SCR-II/CBI/N. Delhi dated 29/09/2006 and submission of file in CBI Court in Ashraya CGHS Ltd. RC-18 (A)/2006/ SCU.V/SCR.II/CBI/Delhi U/S 120B/420/471 IPC & PC Act and that Court of Law had already taken cognisance on the charge sheet filed against him by the concerned administrative department i.e Principal Accounts Office leading to his promotion to post of Grade-I (DASS) on being

recommended FIT by the DPC. Hence, promotion of the official was made in the absence of the material fact about criminal cases pending against him and therefore promotion order No. 28 dated 11.01.2022 is liable to be reversed and recommendation of DPC would be deemed considered as if his case had been placed in sealed cover by the DPC pending decision of the of the Court, in consonance with above referred para 7 of O.M dated 14/09/1992;

And Whereas, this matter was considered by Worthy Chief Secretary being the appointing authority for Grade-I (DASS) and has accorded approval for cancellation of promotion in respect of Sh. Shyam Sunder (DOB:01.03.1969) to the post of Grade-I DASS vide order No. 28 dated 11.01.2022 with retrospective effect and reversion to the post of Grade-II DASS with immediate effect;

And Whereas, Worthy Chief Secretary has also accorded approval to review promotion of Sh. Shyam Sunder to the post of Grade-II (DASS) at the level of Services-II Branch in light of recommendations and documents given by DOV vide its letter dated 09.10.2022;

Now, therefore, upon approval of the Competent Authority, i.e. the Chief Secretary, Delhi, the promotion of Sh. Shyam Sunder to the post of Grade-I (DASS) vide order No. 28 dated 11.01.2022 is hereby cancelled with retrospective effect and the recommendation of DPC shall be deemed considered as if his case had been placed in a sealed cover by the DPC until he is completely exonerated of the charges against him and Sh. Shyam Sunder is reverted back to the post of Grade-II (DASS)/ASO with immediate effect.



22.12.22

(Kulanand Joshi, IAS)

Spl. Secretary (Services)

Sh. Shyam Sunder, Grade-I (DASS),
Through Dy. Controller of Accounts (Admn.),
Principal Accounts Office, Govt. of NCT of Delhi,
A-Block, Vikas Bhawan, IP Estate,
New Delhi-110002.

No.F.55/20/2022/S-I/3516-3524

Dated: 22-12-2022

Copy for information and necessary action to:-

1. S.O. to Chief Secretary, GNCTD, Delhi.
2. The Director, Dte. of Education, Govt. of NCT of Delhi, Old Secretariat, Delhi-110054.
3. The Dy. Controller of Accounts (Admn.), Principal Accounts Office, Govt. of NCT of Delhi, A-Block, Vikas Bhawan, IP Estate, New Delhi-110002 with the request to serve order to Sh. Shyam Sunder and submit an ink dated acknowledge to Services Department.
4. The Dy. Secretary, Services-II Branch, Services Department, GNCTD with the request to review promotion of Sh. Shyam Sunder to the post of Grade-II (DASS) in the light of recommendations and documents given by DOV vide letter dated 09.10.2022.
5. Section Officer (APAR) for information and record.
6. Section Officer (Co-ordination) Services Department, GNCTD with the direction to upload this order on the website of Services Department.
7. PAO concerned through HOD concerned.
8. Guard file.



22.12.22

(Kulanand Joshi, IAS)

Spl. Secretary (Services)