

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No 6/2002
T.A.No.

Date of Decision 18.4.2002

Sh.Alber Singh ... Petitioner

Sh.D.R.Gupta ... Advocate for the Petitioner(s)

VERSUS


Lt.Governor of Delhi & Ors Respondent

Sh.George Parackal, ... Advocate for the Respondents
learned counsel through
proxy counsel Sh.J.A.Chaudhary
for Respondents 1-3
Mrs.B.Rana for R-4

Coram:-

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri M.P.Singh, Member (A)

1. To be referred to the Reporter or not ? Yes
2. Whether it needs to be circulated to other Benches of the Tribunal? No


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 6/2002

New Delhi this the 18th day of April, 2002

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri M.P.Singh, Member (A)

Shri Albel Singh
S/O Sh.Raghunath Singh,
R/O B-47, Vijay Park,
Najafgarh, New Delhi-43

... Applicant

(By Advocate Shri D.R. Gupta)

VERSUS

1. Lt. Governor of Delhi
Raj Niwas, Delhi-110054
2. The Secretary, Education,
Govt.of NCT of Delhi, Old Sectt.,
Delhi.
3. The Director of Education,
Govt.of NCT of Delhi,
Old Sectt., Delhi-110054
4. The Union Public Service Commission
through its Secretary,
Dholpur House, New Delhi.

..Respondents

(By Advocate Shri George Paracken,
learned counsel through proxy counsel
Shri J.A.Chaudhary)

(By Advocate Mrs B.Rana for
respondent No.4)

O R D E R (ORAL)

(Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)

In this application, the main reliefs prayed for by the applicant are to quash and set aside the promotion order dated 3.12.2001, in so far it includes the name of late Sh.V.K.Maheshwari, who had died in 1996 and Shri R.D.Saxena, who has been absorbed in State Council of Educational Research and Training (SCERT) in 1994. He has further sought a direction to the

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respondents to consider his case for promotion against the aforesaid vacancies on the basis of assessment made by the DPC held in 2000-2001 with all consequential benefits.

2. We have heard Shri D.R. Gupta, learned counsel for the applicant, Shri J.A. Chaudhary, learned proxy counsel for respondents 1-3 and Mrs B. Rana, learned counsel for respondent No.4.

3. From the reply filed on behalf of respondents 1-3, it is noticed that they have submitted that they did not have the correct information with regard to late Shri V.K. Maheshwari and Shri R.D. Saxena when the impugned promotion order dated 3.12.2001 promoting them was issued. However, they have submitted that when the correct information has been given to them, they have issued order dated 26.2.2001 for modification of their earlier promotion order dated 3.12.2001. By this action, they have submitted that two vacancies have become available and they are in the process of holding review DPC to consider the case of the applicant. It is noted from the modified order dated 26.2.2002 that the respondents have cancelled the promotion of late Shri V.K. Maheshwari and Shri R.D. Saxena from the post of Vice-Principal to the post of Principal. Shri D.R. Gupta, learned counsel, has submitted that the applicant is to retire from service on superannuation on 30.4.2002 and unnecessarily because of the wrong action

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taken by respondents 1-3, he has been deprived for consideration for promotion to the post of Principal at the relevant time, for which only the respondents are at fault. He has, therefore, prayed that all consequential benefits, including pay and allowances should be allowed to him and a direction should also be given to the respondents to hold a review DPC as early as possible and in any case at least before the applicant retires from service on superannuation on 30.4.2002.

4. Mrs. B.Rana, learned counsel on behalf of respondent No.4-UPSC has submitted with regard to holding of review DPC, the ball is now in the court of respondents 1-3 to whom they have written a letter dated 3.4.2002 for furnishing certain information. She has also submitted that no reply has been given by respondents 1-3 to this letter till date. She has, however, submitted that as soon as the necessary information is received from respondents 1-3, the UPSC will be in a position to hold the review DPC.

5. As seen from the pleadings on record and the submissions made by the learned counsel for the parties, the delay in considering applicant's case for promotion to the post of Principal is apparently due to the negligence and inefficiency on the part of respondents 1-3, firstly in earlier issuing the impugned promotion order dated 3.12.2001 which has been subsequently modified by their own order dated 26.2.2002. It is

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somewhat disconcerting to note the fact that in the case of late Shri V.K.Maheshwari whom respondents 1-3 promoted by order dated 3.12.2001, that person had unfortunately expired five years back in 1996. Again according to their own averments, in the case of Shri R.D.Saxena, the other person who had been erroneously promoted as Principal by respondents 1-3, they have stated that he has been absorbed in SCERT in 1994 i.e. more than seven years back. These errors committed by the respondents could have been certainly avoided if they had checked their records in time or got the information which they said was not available with them before the erroneous order of promotion dated 3.12.2001 had been issued. It is further noted from the submissions made by Mrs. B.Rana, learned counsel that in spite of the UPSC letter addressed to Respondents 1-3 on 3.4.2002 to supply them necessary information, no reply has been received by them till date, to enable them to hold the review DPC. Respondents 1-3 are also well aware that the applicant is due to retire on superannuation from service w.e.f. 30.4.2002. The above facts show a very casual, negligent and careless attitude on the part of the concerned officer(s) of respondents 1-3 which has also retarded the work of respondent No.4 i.e. UPSC to proceed in the matter in accordance with the rules. Necessary information as called for by them by letter dated 3.4.2002 should have been given to them immediately, when they themselves have admitted their own mistake in issuing the order

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dated 3.12.2001 which has been modified by subsequent order dated 26.2.2002. Needless to say, such action should not be repeated in future in public interest as well as to avoid unnecessary litigation. After the modification order was issued by respondents 1-3 on 26.2.2002, they had ample time to hold the review DPC which has not been done till date, even though in their reply dated 15.3.2002 i.e. one month back, they have submitted that it is under process. They knew fully well that they have passed a wrong order of promotion on 3.12.2001 which they were bound to correct and take necessary action as promptly as possible to redress the grievance of the applicant in accordance with law, without driving him to file this Original Application which he has done on 1.1.2002.

6. For the reasons given above, the OA succeeds and is allowed with the following directions:-

(i) As the impugned order dated 3.12.2001 has been modified by the respondents by their order dated 26.2.2002, the earlier order does not have to be set aside as the same does not survive;

(ii) However, respondents 1-3 to furnish necessary information immediately to respondent No.4 - UPSC to enable them to hold the Review


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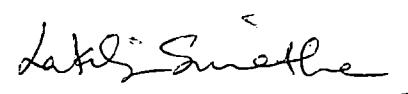
DPC as expeditiously as possible and in any case before the end of the month i.e. 30.4.2002;

(iii) In case the Review DPC as ordered above finds the applicant fit for promotion to the post of Principal, he shall be entitled to all consequential benefits, including difference of pay in the higher post from the date his junior was promoted in accordance with law. As he is to retire from service on superannuation w.e.f. 30.4.2002, he shall also be entitled to consequent pensionary benefits;

(iv) For the reasons given above, we consider that this is a fit case to award ~~costs~~^{pr} costs against respondents 1-3 and in favour of the applicant which is quantified as Rs.6000/-(Rupees six thousand) which shall be paid to him by the end of this month.

7. Let a copy of this order be issued urgently to all the parties.


(M.P. Singh)
Member(A)


(Smt. Lakshmi Swaminathan
Vice Chairman (J)

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