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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1285/2001

New Delhi, this the 17th day of October, 2001

Hon'ble Shri Kuldip Singh, Member (J)
Hon'ble Shri Govindan S.Tampi, Member (A)

Shri Sanjiv Kumar
S/o Shri Raghu Nath Rai
28, SFS Flats, Sector-III
Dwarika, New Delhi - 110 045.

(By Advocate Shri L.R.Khatana)

...Applicant

V E R S U S

1. Secretary
UPSC, Dholpur House,
Shahjahan Road
New Delhi - 110 001.
2. Union of India : through
Secretary,
Deptt. of Elementary Education & Literacy
Ministry of Human Resource Development
Shastri Bhavan, New Delhi - 110 001.

... Respondents ~

(By Advocate Shri Madhav Panikar)

O R D E R (ORAL)

By Hon'ble Shri Govindan S.Tampi,

Heard S/Shri L.R.Khatana and Shri Madhav Panikar, learned counsel for the applicant and the respondents respectively.

2. The reliefs sought by the applicant in this case are as below :-

(i) to direct the respondents to produce the relevant records pertaining to the consideration of the claim of the applicant for age relaxation and selection.

(ii) to declare that the rejection of the claim of the applicant for age relaxation, of respondent No.1 and the consequent cancellation of his selection is illegal, arbitrary, unreasonable, iniquitous, malafide, unfair and ultra vires of its powers and quash and set aside the same.

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(iii) to direct the respondents to reconsider the case of the applicant after granting him age relaxation as meritorious sports person, which he is entitled to under the rules and instructions, and appoint the applicant to the post of Deputy Director in the office of respondent No.2 as he has been selected on merit for the same.

3. To state in brief the facts, the applicant has been working as a Senior Lecturer, in the District Institute of Education & Training (DIET), under State Council of Education of Research & Training (SCERT), Govt. of NCT of Delhi. According to him, he has an excellent academic record, rich experience in educational research and training. Besides, he is an outstanding athlete and a meritorious sportsman having participated in national championships recognised/organised by the Amateur Athletic Federation of India. Respondents had advertised for filling the post of Deputy Director, Directorate of Adult Education, Deptt. of Education in the Employment News dated 10-16/7/1999. The applicant who applied for the said post had sought relaxation of age as a Govt. servant and furnished a Certificate dated 21-7-1999 from his employer to the said effect. He was, in doing so, supported by the fact that in the case of others in the same organisation earlier such certificates had been given. However, it was found that the applicant was not a Govt. servant. Thereafter he sought age relaxation as a meritorious sportsman, which was also permitted by the rules for which he has produced a Certificate from the Secretary of Delhi State Amateur Athletic Association indicating that he had represented the State in Marathon, as if he was a meritorious sportsman entitled to be given age relaxation for the said appointment. The same,

however, was not found favour with the UPSC, who did not consider the case of the applicant. Hence this OA.

4. During the oral submissions before us today, Shri L.R.Khattana, learned counsel appearing for the applicant, invited our attention to the letters Nos.14015/1/76-Estt.(D) dated 4-8-1980 of DOP & AR communicating general instructions regarding appointment of meritorious sportsman to Group "C" and "D" posts and subsequent letters dated 12-11-1987 and 4-5-1995 of DOPT. He states that his was a case well within the parameters prescribed by the instructions, and he came within the eligibility conditions mentioned at (f) of the letter dated 4-5-1995, wherein it has been mentioned that "preference may be given to those, who represented a State/Union Territory/University/State School Teams at the level mentioned in categories (b) to (d) but could not win a medal or position, in the same order or preference". Shri L.R.Khatana, states that his case fell under this category as he had represented Delhi State in Marathon and, therefore, his case for age relaxation was genuine. If at all there was any doubt in the matter, the same will have to be decided by the DOPT in consultation with the Deptt. of Sports and Youth Affairs and not by the UPSC. In this case the findings of the UPSC that the applicant was not eligible for consideration was incorrect, illegal and deserved to be set aside, Shri Khatana states.

5. Countering the above and reiterating the pleas raised on behalf of the respondents, Shri Madhav Panikar, learned counsel submits that the applicant had originally demanded the age relaxation on the basis of his being Govt. servant, but on finding that the same was not possible, he has made an attempt for getting the age relaxation as a sportsman, for which he had obtained a Certificate, issued by the Secretary of Delhi State Amateur Athletic Association, which stated that the applicant had represented the State of Delhi in Athletics - half marathon in the National competition held at New Delhi on 21-12-1986. On being asked by the UPSC to explain the position, as the word 'Delhi' was struck off in the Certificate, the Secretary, DSAAA had stated that the individual did not figure within first three position, but completed the race within the time limit as in the Certificate. It was further clarified by the Secretary that the applicant had sent his entry or Marathon on his own and he was not sponsored by State Association as Marathon/Half Marathon are not organised at state level. However, as the applicant was the resident of Delhi, he was deemed to have participated from Delhi. This showed that the individual concerned had only participated in a Marathon organised by a private body along with the National Institute of Sports and A.A.F.I. and he could not, therefore, be considered as having represented the State, as required in the DOP & AR letter of 4-8-1980, which specified the requirements and eligibility or relaxation, argues Shri Panikar.

6. In his fervent rebuttal, Shri Khatana, stated that the attempt by the UPSC was to manipulate the documents and averred that in the Certificate which he has received from the Secretary, DSAAA the word "Delhi" was not struck off as alleged and the respondents had deliberately acted against his interests by getting the clarificatory letter from the Secretary, DSAAA. He also states that this is a case where the Tribunal's specific intervention was called for to render the justice and also to ensure that UPSC scrupulously followed the instructions on the subject case issued by DOP & AR for determining the eligibility of the candidate instead of deciding themselves as to whether the individual is qualified or not. Once the certificate has been issued by the Secretary, DSAAA who is the competent authority, it should automatically grant him eligibility for relaxation. The same having been denied and unjustly so, he had to approach the Tribunal, prays Shri Khatana.

7. We have carefully considered the matter specifically in the light of the instructions of the DOP & AR earlier and DOPT later with regard to the eligibility of persons for being recruited against Group "C" & "D" posts from the category of meritorious and outstanding sportsmen. The Scheme itself has been formulated to ensure that in the matter of appointment through direct recruitment, Govt. should give special consideration to persons who have represented the Country or the State or the University or the School in representative tournaments or persons who have

obtained national awards in physical efficiency or those persons who have represented the State/UT/University/State, School though could not obtain a medal or position. The relevant and specific expression used is the "representation of the country at international level, of the State at the national level, of the University at Inter University level and of the School at inter School level and winning medal or positions". Thereafter, persons who were awarded National award in physical efficiency and lastly those who have participated at the various levels even if they had not obtained any medals or positions. In the instant case, the individual has obtained and produced a certificate from DSAAA showing that he has participated in Half Marathon (21Km.) conducted by the Makers of Rath Vanaspati in conjunction with the Amateur Athletic Federation of India and the National Institute of Sports. The relevant portion of the said letter dated 23-3-2001 reads as below :-

"In this connection, I am to inform you that Shri Sanjeev Kumar had sent his entry for 21 KM (half Marathon) held on 21-12-1986 at Jawahar Lal Nehru Stadium, New Delhi on his own. It is, however, clarified that entries for Marathon Races are, as per practice, sent by the participating individuals/and not by the/direct State Association

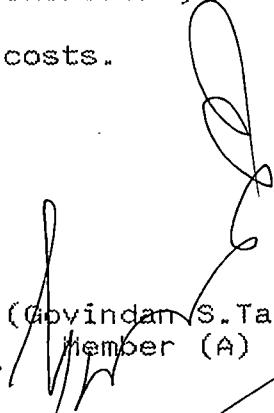
It is further clarified that the Marathon/half Marathon are not organised at State level like other Athletic events where the entries for National competitions are sent through State Association.

Since Sh. Sanjeev Kumar is a resident of Delhi, he is deemed to have participated from Delhi. Accordingly, the required certificates were issued to him by me after seeing his certificates".

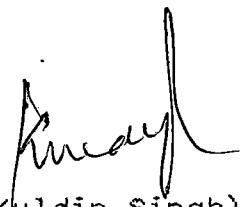
Only inference which can emerge from this letter is that the applicant had participated on his own in a half marathon and that he is a resident of Delhi.

This does not bring him in any of the five categories indicated in the letters of DOP & AR and DOPT outlining the basic qualification and requirements for being considered for appointment in any post against the quota meant for meritorious or outstanding sportsmen. Once he is not eligible to be considered for appointment against the quota for meritorious or outstanding sportsmen, the question of any age relaxation does not even arise. The respondents have acted correctly and legally and there is no justification at all for assailing the decision.

8. The applicant has not made out any case for our interference either in law or on facts. The same, therefore, fails and is accordingly dismissed. No costs.


(Govindan S. Tampi)
Member (A)

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(Kuldip Singh)
Member (J)