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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 717/2001

New Delhi this the 8th day of November, 2001

Hon'ble Smt.Lakshmi Swaminahan, Vice Chairman(J)
Hon'ble Shri Govindan S.Tampi, Member (A)

Shri Raj Singh Yadav,
R/O late Shri Bhai Ram,
R/O H.No.201, Gali No.4, Hari Nagar,
Near Anaz Mandi, Gurgaon-120001

..Applicant

(By Advocate Shri D.R.Gupta)

VERSUS

1. Union of India through Secretary
M/O Human Resources Development,
Department of Secondary Education and
Higher Education (CDN Section),
Shastri Bhawan, New Delhi.

2. Commissioner, Kendriya Vidyala Sangathan,
18, Institutional Area, Shaheed Jit Singh
Marg, New Delhi-110016.

..Respondents

(By Advocate Shri S.Rajappa)

O R D E R (ORAL)

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

In this application, the applicant has prayed for certain reliefs, one being for a direction to the respondents to convene a Departmental Promotion Committee (DPC) for consideration of his case for promotion to the post of Hindi Officer(H.O) from the date when that post fell vacant with all consequential benefits.

2. The grievance of the applicant is that there has been inaction on the part of the respondents in not convening the DPC for consideration of his case for promotion to the post of H.O. in terms of the Recruitment Rules(RRs.) notified by Memo.dated 6.7.1984.

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3. We have heard Shri D.R.Gupta, learned counsel for the applicant and Shri S.Rajappa, learned counsel for the respondents and perused the documents on record.

4. On perusal of the respondents' reply we see force in the submissions made by Shri D.R. Gupta, learned counsel that the respondents have not taken necessary action to consider the case of the applicant for promotion to the post of H.O., in accordance with the aforesaid RRs. As per these rules, for the post of H.O., the method of recruitment is by promotion on the basis of seniority-cum-merit from amongst Sr.Hindi Translators of the Sangathan who are having 3 years regular service as such in ^{the Rr.} Sangathan and possessing qualifications as laid down in Col.7, failing which by direct recruitment.

5. One of the contentions of the learned counsel for the respondents is that the post of H.O. had fallen vacant on 1.6.2000 ^{but Rr.} because a decision has been taken by the Sangathan not to fill up the post till the revision of the RRs for non-teaching posts is carried out. We do not find any justification on this account for not holding the DPC in time. Another ground taken by the learned counsel is that as per the RRs of 1984, as a matter of fact, the applicant is ^{the Rr.} only candidate in the zone of consideration who fulfils the eligibility conditions of three years regular service in that grade. This again was ^{the Rr.} ~~the~~ matter for the respondents to have looked into much earlier or amended the rules, if they desired that it was necessary. The applicant has clearly stated in the OA that he fulfils the criteria laid down in the RRs for

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consideration for promotion to the post of Hindi Officer, namely, three years regular service in the Sangathan and also possess^{re}~~es~~ the educational qualifications as laid down in Col.7. In the facts and circumstances of the case, we, therefore, find no force in the submissions of Shri S.Rajappa, learned counsel that because the applicant is ^{the} only ^{re} candidate in the zone of consideration, there is no scope of a wider choice in the matter of promotion ^{re} and the RRs are currently under revision. As he fulfils all the eligibiity conditions, it was for the respondents to hold the DPC in time as provided in the instructions from time to time. However, this has not been done.

6. Shri D.R.Gupta, learned counsel, has relied on the judgement of the Hon'ble Supreme Court in State of Rajasthan Vs. R. Dayal and Others (1997)(10)SCC 419) which has followed the earlier decision of the Supreme Court in Y.V. Rangaiah Vs. J. Sreenivasa (1983(3)SCC 284) and the order of the Tribunal in Dr. G.D. Goel Vs. UOI & Ors (OA 2029/1993) dated 30.7.1999, copies placed on record. In the facts and circumstances of the case, these judgements relied upon by the learned counsel for the applicant are fully applicable. ^{re} We, therefore, find no reason why a direction should not be given to the respondents to convene a DPC to consider the case of the applicant for promotion to the post of H.O., which admittedly is lying vacant from 1.6.2000. Learned counsel for the applicant has also relied on the Govt. of India instructions regarding holding DPC meeting in which it has been provided that the DPC meetings need not be delayed or postponed on the

ground that the Recruitment Rules for a post are being reviewed/amended. The vacancy shall be filled in accordance with the RRs in force on the date of occurrence of the vacancy (Govt.of DOP&T OM dated 13.5.1991). No instructions have been referred to by the learned counsel for the respondents that these instructions of the Govt.of India are not applicable to the Sangathan and in any case the ratio of these instructions will be fully applicable to the facts in this case. Having regard to the aforesaid judgements of the Hon'ble Supreme Court the OA is disposed of with the following directions:-

The respondents are directed to convene the DPC to consider the case of the applicant for promotion to the post of Hindi Officer in accordance with the Recruitment Rules issued by Memo.dated 6.7.1984 . In case the applicant is found fit by the DPC he shall be entitled to all consequential benefits in accordance with the relevant rules and instructions. This shall be done within a period of three months from the date of receipt of a copy of this order. No order as to costs.

(Govindan S.Tampi)
Member (A)

Lakshmi Swaminathan
(Smt.Lakshmi Swaminathan)
Vice Chairman(J)

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