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O. A. No. 1056 of 1999

New Delhi, dated this the 18 April, 2002

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE CHAIRMAN (J)

In the matter of:

Amarnath Shukla Vs Govt. of NCT of
Delhi. through
its Chief Secretary
& Anr.

By Advocate: Shri Arun Bhardwaj for applicant.
Shri Vijay Pandita for respondents.

ORDER

S. R. ADIGE, VC (A)

In this OA filed on 6.5.99, applicant seeks a direction to respondents to select him for the post of DASS Grade I in Sport Quota or in DASS Grade IV in Sport Quota.

2. The order sheet reveals that this OA had been heard over several sittings. During the course of one of those sittings on 8..8.2001 the Bench had inspected the marksheet containing the marks awarded for the trial tests which formed one of the components for the selection held for DASS Grade-II and DASS Grade-IV in Sports Quota. The Bench prima facie had found some discrepancies in the figures while totalling was being carried out. Accordingly, in the interest of justice respondents had been called upon to furnish on affidavit a statement separately for Grade-II and Grade-IV of DASS showing the marks obtained by each of the candidates who were

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interviewed and indicating their merit position, both before as well as after dividing the trial test marks by 4.

3. Pursuant to the aforesaid directions respondents have filed an affidavit.

4. Applicant's counsel had sought permission to inspect respondents' record. In the interest of justice permission had been accorded to him to inspect the records in the presence of the officials of the Bench.

5. On the basis of the permission so granted applicant's counsel inspected the relevant records, and during the course of hearing invited our direction to some notings in respondents' records which appeared to cast doubts on the validity of the certificate submitted by some of the selectees and/or other such infirmities in regard to the selections made. Applicant's counsel therefore urged during hearing that he should be permitted to file an MA to amend the OA to urge these additional grounds in regard to applicant's claim in the present OA.

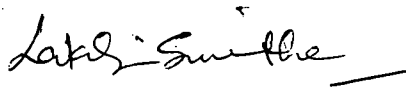
6. We informed applicant's counsel that these additional grounds could not be urged merely by filing an MA seeking to amend the OA. Indeed if these additional grounds were being pressed, the entire focus of the OA would be drastically altered, and all those incumbents whose appointments applicant was challenging, would have to be made respondents, and the grounds of challenge to their appointments

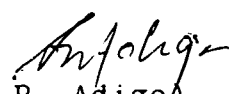
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would have to be specified, to enable them to give specific replies to the same, and applicant his rejoinder, if any. As this procedure has not been followed and necessary parties have not been impleaded in the OA or given reasonable opportunity to state their defence, it would not be either fair or just for the Tribunal to adjudicate on the pleadings of the applicant and pass an ex-parte order against ³these persons who are likely to be adversely affected without giving an opportunity of hearing them. Hence, as the applicant now seeks to press the alleged additional infirmities, which he states that he has discovered after perusal of the respondents' record during the pendency of this O.A., we consider that it would be appropriate in the interest of justice to dispose of this O.A. granting liberty to the applicant to proceed in the matter afresh, in accordance with law. In the peculiar facts and circumstances of the case, the bar of limitation would not come in his way in pursuing his remedies separately, if so advised.

7. O.A. is disposed of as above. No order as to costs.


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)


(S.R. Adige)
Vice Chairman (A)

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