

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-2063/99

New Delhi this the 25th day of October, 1999.

Hon'ble Sh. S.P. Biswas, Member(A)
Hon'ble Sh. Kuldip Singh, Member(J)

Sh. Parvendra Pal Singh,
S/o late Sh. Satya Pal Singh,
Chamber No. C-161,
C.L. Joseph Block,
Civil Wing, Tis Hazari Courts, Applicant
Delhi-54.

(through Sh. B.B. Raval, Advocate)

versus

1. Govt. of NCT of Delhi through
Chief Secretary,
5, Sham Nath Marg,
Delhi-54.
2. Union Public Service Commission
through its Secretary,
Dholpur House,
Shahjahan Road,
New Delhi. Respondents

(through Sh. Rajinder Pandita for R-1 and Sh. R.N.
Sinha for Sh. R.V. Sinha for R-2)

ORDER(ORAL)

Hon'ble Sh. S.P. Biswas, Member(A)

Applicant is aggrieved by the respondents
inaction in not offering him regular appointment
letter pursuant to recruitment test taken for
appointment of 61 candidates to posts of Asstt.
Public Prosecutor in the Directorate of
Prosecution/Govt. of NCT/Delhi. The applicant would
submit that he is in the appropriate panel of
selected candidates with Serial Number at 31. He
has not yet been favoured with a letter of
appointment when others, allegedly juniors to him, in
the panel have been actually appointed. The

applicant has, therefore, alleged discrimination having been perpetuated against him by the respondents. Consequently, the applicant is before us seeking relief in terms of issuance of directions to respondents to appoint him on regular basis in pursuance of the selection and the recommendations made by Respondent No.2 for the post of Asstt. Public Prosecutor/Govt. of NCT/Delhi.

2. Shri Rajinder Pandita, learned counsel for respondent No.1 argued vehemently and catalogued his objections against the reliefs prayed for by the applicant on the basis of the following:-

(i) That the applicant cannot claim to have been affected by any order. None of the Central Govt. employees, unless is adversely affected with civil consequences are to approach the Tribunal for redressal of grievances under Section 19 of the Administrative Tribunals Act 1985.

(ii) That the applicant's caste as "OBC" does not figure in as OBC in the list published by the Govt. of NCT/Delhi.

(iii) That the applicant has rushed to this Tribunal without exhausting alternative remedies available under the system and without waiting for the necessary gap of time for the respondents to react to his representation.

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(iv) That the application deserves to be dismissed straight away in limine on account of non-joinder of necessary parties, particularly Govt. of India.

3. To buttress his contentions, the learned counsel for the respondents cited the decision of the Apex Court in the case of S.S. Rathore Vs. State of M.P. (AIR 1990 SC 10). He also brought to our attention the decision of the Tribunal in the Full Bench decision in the case of P. Parmeshwar Rao Vs. U.O.I. (Full Bench Vol.II CAT Hyderabad in OA-27/90). Besides the pleas taken above, the respondents have also taken major objection to the offer of appointment to the applicant on the ground as hereunder:-

"From the above O.M. and notification it is clear that for the post of Government of National Capital Territory of Delhi, a candidate must belong to other backward classes as notified by the Government of National Capital Territory of Delhi and also produce a certificate issued by the competent authority in the prescribed format."

4. The issues that arise for determination are as under:-

(a) Whether an appointment under the Government of NCT/Delhi is an appointment under U.O.I.? and

(b) Whether a candidate belonging to OBC of a different State having successfully completed in the selection held by the UPSC could be given offer of appointment under the Govt. of NCT/Delhi, if other conditions are fulfilled?

5. Determination of these two basic issues need not detain us any longer. The Principal Bench of this Tribunal in a recent OA decided that Government of NCT/Delhi is a part of Union Territory and has not yet been formally offered the status of an independent statehood. This Tribunal also have had the opportunity of deciding if OBCs belonging to different neighbouring States could seek appointment under the Lt. Governor of Delhi. In a group of cases i.e. O.A.Nos. 2410/96 alongwith 15 other OAs decided on 24.10.97 that OBCs belonging to the States like Haryana, Punjab and U.P. etc. are eligible for appointment as Constable under Delhi Police since that forms part of Government of NCT. The Commissioner of Police initially was successful in staying the order of this Tribunal dated 24.10.97. However, on hearing both the parties, the Hon'ble High Court vacated the interim order vide its order dt. 24.9.98. Commissioner of Police afterwards filed an S.L.P. No. 3130/98 against the order of this Tribunal. The Apex Court dismissed the S.L.P. vide its order dated 15.3.99.

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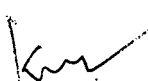
6. We find that the respondents have not taken any final decision rejecting the candidature of the applicant. On the contrary, learned counsel for both by respondents No. 1 & 2 submitted that the applicant's case is still under consideration. It is also not in doubt that the applicant has filed a representation dated 20.8.99 seeking clarification and relief from Respondent No.2 in particular. It appears that the Respondent No.2 has decided to turn Nelson's eyes on that representation of the applicant therein. The only plea which survives is respondents claim that the applicant has not produced any certificate issued by the competent authority in the prescribed proforma. We did ask the learned counsel for the applicant to show us a photocopy of the said certificate but it could not be produced at the time of oral hearing.

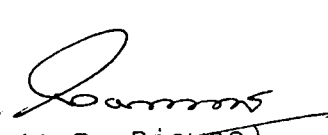
7. In the circumstances aforesaid, we consider it appropriate to dispose of this O.A. with a direction that the applicant shall submit a representation to Respondent No.1 within a period of 15 days from the date of receipt of a copy of this order annexing a copy of the appropriate OBC certificate issued by the competent authority.

8. Respondent No.1 shall dispose of the representation within a period of six weeks from the date of receipt of the representation strictly in

terms of the law laid down by the Government of India. The respondents shall do well to adhere to the time limit given by this Tribunal. Applicant will have the liberty to reagitate the issue in case he is so advised.

No costs.


(Kuldip Singh)
Member(J)


(S.P. Biswas)
Member(A)

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