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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1120/98

New Delhi this the 4th Day of June 1998

Hon'ble Shri Justice K.M. Agarwal, Chairman
Hon'ble Shri R.K. Ahooja, Member (A)

Shri N.H. Dave,
Asstt. Director (P),
Department of Education,
Ministry of Human Resources Development,
Government of India,
Shastri Bhawan,
New Delhi.

Petitioner

(By Advocate: Shri D.S. Garg)

-Versus-

1. The Secretary to Govt. of India,
Department of Education,
Ministry of Human Resource Development,
Shastri Bhawan,
New Delhi.

2. The Chairman,
Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi.

Respondents

(By Advocate : None)

-ORDER-

The applicant is working as an Assistant Director on ad hoc basis in the Department of Education. He has come before the Tribunal aggrieved by his supersession by the impugned order dated 19.6.1997.

2. The case of the applicant in brief is that one Shri P.N. Gupta who is junior to him has been by promoted by the impugned order for the post of Assistant Director (Planning) on a regular basis overlooking his rightful claim. The applicant says that only in 1996 he had been

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considered along with Shri P.N. Gupta for regularisation as Assistant Education Officer (Statistical) and not only the applicant was cleared but he had also retained his seniority over Shri P.N. Gupta. The applicant states that the post of Assistant Education Officer (Statistical) is also a selection post like by that of Assistant Director (Planning) and the same on character rolls were considered for the post of Assistant Director (Planning) as those considered for the post of Assistant Education Officer.

3. We have heared Shri Garg for the applicant. It is an admitted position that the applicant was considered by the Departmental Promotion Committee for regular appointment to the post of Assistant Director (Planning). The departmental Promotion Committee was chaired by a Member of the UPSC. There is no allegation that there has been any malafide or bias against the applicant. It is settled law that a Government servant has a right to be considered for promotion but has no vested right to be promoted. In selection post seniority alone is not the criteria for selection to the next higher grade. This view is confirmed by the Supreme Court in State Bank of India Vs. Mohd Mynuddin AIR 1987 SC 1889 that whenever promotion to the higher post is to be made on the basis of merit, no officer can claim promotion to the higher post as a matter of right by virtue of seniority alone.

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4. We also note that each DPC follows its own rules. A DPC for the post of Assistant Education Officer cannot be compared with a DPC for the post of Assistant Director (Planning). Each DPC has to appreciate the ability or attributes necessary for the post for which it is dealing and a person suitable for selection to one post may not be counted equally eligible, even on the basis of the same record, for another post involving a differnt set of duties and responsibilities. Prima facie, therefore, we cannot accept the argument that the applicant having been selected for the post of Assistant Education Officer was equally entitled for selection to the post of Assistant Director (Planning).

5. In the light of tha above discussion we find no scope whatsoever for interference on the part of the Tribunal. Accordingly the OA is dismissed at the admission stage itself.

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(K.M. Agarwal)
Chairman

R.K. Ahuja
(R.K. Ahuja)
Member (A)

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