

Central Administrative Tribunal
Principal Bench

O.A. No. 475 of 1998

New Delhi, dated this the 6th February, 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

S/Shri

1. Kashmiri Lal,
S/o Shri Munshi Lal
R/o Sector IV/1221, R.K. Puram,
New Delhi.
2. Dharam Pal
3. Kamlesh Wadhera
4. Amar Singh
5. Milap Chand .. Applicants

(By Advocate: Shri S.C. Luthra with
Shri O.P. Khokha)

Versus

1. Union of India through
the Secretary,
Ministry of Finance,
Dept. of Revenue,
North Block, New Delhi.
2. Secretary,
Central Board of Direct Taxes,
Ministry of Finance,
New Delhi.
3. Chief Commissioner of Income Tax,
C.R. Building, I.P. Estate,
New Delhi-110002.
4. Ms. Amrit Kaur
5. Surender Jamwal

(By Advocate: Shri V.P. Uppal)

ORDER (Oral)

S.R. ADIGE, VC (A)

Applicants seek a direction that respondents were not justified to scrap the residual panel of Tax Assistants in March, 1997 on the wrong assumption that there were no vacancies, and to direction respondents to operate the residual panel of 10

7

26

general candidates for promotion as Tax Assistants with consequential benefits such as arrears of pay, seniority etc.

2. We have heard applicants' counsel Shri Luthra along with Shri Khokha and Respondents' counsel Shri Uppal.

3. According to the Recruitment Rules, promotion to the post of Tax Assistant in the Income Tax Deptt. is to be made from amongst UDCs who have rendered minimum regular service of three years in the grade and have secured at least 40% marks separately in Income Tax Law-I and II and Other Direct Taxes and Office Procedure in Income Tax Inspectors Departmental Examination.

4. It is not denied that pursuant to the departmental examinations that were held from time to time, applicants appeared in the same and by respondents' order dated 21.12.95 relaxing the eligibility conditions for promotion to the post of Tax Assistant, applicants were deemed to have passed written examination as per relaxed standards.

5. Thereafter a DPC was held on 21.5.96 for promotion to the cadre of Tax Assistant for the year 1996-97. A perusal of the DPC minutes, a copy of which is taken on record reveals that applicants in the present O.A. were found fit for promotion by the DPC, but as only two general candidates who were

above applicants in the merit list were promoted and applicants (all of whom are belonging to General Category) were not promoted. In addition to the two general candidates as many as 10 SC candidates were also promoted.

6. During the course of the hearing applicants' counsel Shri Luthra has invited our attention to the large imbalance between the number of general candidates promoted vis-a-vis SC candidates promoted and contends that this is violative of the Hon'ble Supreme Court's ruling that at any one point of time, not more than 50% vacancies can be filled up reserved candidates.

7. However, Shri Uppal points out that the Hon'ble Supreme Court's rulings have to be applied in the context of full recruitment year, which in the present case is 1996-97 during which 54 General Candidates and 14 SC candidates were promoted and hence respondents have not committed any illegality in the recruitment.

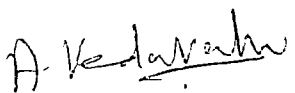
8. Without considering it necessary to go into this aspect of the matter any further, we note from the proceedings of the DPC, as well as respondents' reply that as many as 23 vacancies were kept reserved for ad hoc employees, whose cases were stated to have been referred to the CBDT for their continuation.

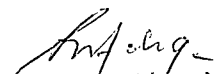
27

7

9. It is well settled in a catena of judgments of Hon'ble Supreme Court that ad hoc appointees have to make way for regular appointees, and hence, the promotion of five applicants could not have been denied, merely because vacancies to which they would have otherwise been promoted, were kept reserved for ad hoc employees.

10. Under the circumstances, this O.A. succeeds and allowed to the extent that Respondents are directed to consider promoting applicants as Tax Assistants if they are otherwise found eligible w.e.f. 5/6.6.1996. If so promoted, applicants shall be entitled to notional seniority, pay and allowances and other service benefits from that date, but shall not be entitled to arrears of pay and allowances. These directions should be implemented within two months from the date of receipt of a copy of this order. No costs.


(Dr. A. Vedavalli)
Member (J)


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

'gk'