

Central Administrative Tribunal, Principal Bench

O.A. 569/1998

New Delhi, this the 22<sup>nd</sup> day of November, 2000

Hon'ble Mr. Kuldip Singh, Member (J)  
Hon'ble Mr. M.P. Singh, Member (A)

Krishan Singh  
S/o Shri R.S. Yadav  
32, Krishan Kunj Colony  
Laxmi Nagar,  
Delhi-92

....Applicant

(By Advocate: Shri S.K. Sinha)

VERSUS

1. Govt. of NCT Delhi  
through Secretary-cum-Labour Commissioner  
15, Rajpur Road, Delhi-54

2. Shri J.C. Negi  
Dy. Labour Commissioner (Admin)  
Department of Labour,  
15, Rajpur Road, Delhi-54

3. Shri Pradeep Kumar Saini  
S/o Shri Krishan Mohan  
Inspecting Officer, South-West District  
Labour Department  
15, Rajpur Road, Delhi-54

....Respondents

(By Advocate: Mrs. Neelam Singh)

ORDER

By Hon'ble Mr. Kuldip Singh, Member (J)

The applicant in this O.A. has challenged the appointment of respondent no.3 to the post of Inspecting Officer under respondents 1&2.

2. Facts in brief are that respondents had issued a memorandum dated 19.9.97 for filling up two posts of Inspecting Officer in the pay-scale of Rs.1640-2900, one by SC candidate and the other by OBC candidate. The name of the applicant also seems to have been sponsored by the Employment Exchange for the said post of Inspecting Officer. He was directed to appear for interview. The grievance of the applicant

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is that the entire interview conducted by department was sham because earlier the date of interview was fixed on 18.9.97 which was cancelled on spot and further call letters were issued for holding of the interview on 8.10.97 at 11.30AM. But it appears that on the same day, respondents had appointed one Shri P.K. Saini (respondent no.3) as inspecting officer on ad-hoc basis while the interviews were still going on. The benefit has been given to respondent no.3 since he has been working as UDC in NCC department earlier. It is alleged that respondent no.3 had won over respondents 1 and 2 and pre-arranged everything to get himself absorbed in the post in question on regular basis and that is why he had taken the risk to resign from a permanent post and opted to join in the ad-hoc post. Thereafter, again interview letters were issued and the candidates were informed vide letter dated 20.10.97 that interviews will be held on 29.10.97 and then in violation of all the norms of service jurisprudence and ignoring the fundamental rights of the candidates, respondent no.2 issued a letter on 3.11.97 appointing respondent no.3 as inspecting officer with immediate effect. Applicant has stated that malafide on the part of respondents was quite apparent as they had already selected a person to whom they wanted to appoint and conducting of the interview was merely a farce. It is also pleaded that respondent no.3 did not possess the requisite qualification stipulated for the post of inspecting officer and he was in no way suitable for the said post. Applicant has pleaded that appointment of

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respondent no.3 was not the result of the interview held on 29.10.97 and respondents no.1&2 had withheld the result of the interview without any rhyme and reason. Thus the entire procedure adopted by respondents was a sham and appointment of respondent no.3 was a fraud upon the applicant and other candidates. Applicant has, therefore, prayed for quashing of the appointment letter of respondent no.3 and to appoint him on the post of inspecting officer instead thereof.

3. Respondents have contested the petition. They have submitted in their reply that respondent no.3 was initially appointed purely on ad-hoc basis. They have admitted that interview letters earlier issued, had to be cancelled but that was done as it was found out in consultation with the Staff Selection Board (in short SSB) that the post in question was meant for OBC category candidate as per the roster. They have further pleaded that respondent no.3 was appointed on the recommendations of SSB. SSB had selected respondent no.3 as he belonged to OBC category. It is denied by them that respondent no.3 does not possess the requisite qualification and experience for the post of inspecting officer.

4. Respondent no.3 has also contested the petition. He has stated that this OA has been filed with the sole objective to harass him. He has submitted that though the applicant was interviewed by the Selection Committee on 29.10.97 for one post of OBC but was not selected and on the other hand, the

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selection committee had recommended him for the said post meant for OBC and subsequently on the recommendation of selection committee, respondent no.1 had issued him offer of appointment on 5.11.97. Respondent no.3 has submitted in his reply that his appointment is quite valid and applicant has no legal right to challenge the same particularly in view of the fact and circumstances that he had also participated in the same interview wherein he was not recommended by the selection committee for the post in question. He has further stated that he is M.A. in Political Science, LL.B (specialised in labour laws) and Post Graduate Diploma Holder in Industrial Relations and Personnel Management and belongs to OBC category. Thus he fulfils all the qualifications and the applicant cannot challenge his appointment. He has also submitted that he had worked as Reader in Industrial Tribunal/Labour Court from 29.8.86 to 29.2.96. So he had sufficient experience of observing of cases between labour and management.

5. We have heard learned counsel for the parties and gone through the records.


6. The only objection of the applicant is that the manner in which interviews were held and appointment was made, gives an impression that respondents no.1&2 were pre-determined to appoint respondent no.3 on the post of Inspecting Officer. He has alleged certain malafides also against respondents 1 and 2 but we find that he has not specifically alleged malafide on the part of SSB before whom all the candidates were interviewed and which has recommended the name of respondent no.3 as a candidate

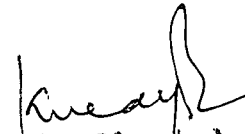
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to be appointed against the OBC vacancy of Inspecting Officer. Merely because respondent no.3 had earlier been given ad-hoc appointment, that does not show that respondents had already made up their mind to appoint him against a regular vacancy and interviews held on 8.10.97 and 29.10.97 were both sham and fraudulent.

7. As far as challenge to the qualifications of respondent no.3 is concerned, he possesses Degree of M.A. in Political Science, LL.B as well as Post Graduate Diploma in Industrial Relations and Personnel Management. This shows that respondent no.3 is fully qualified to hold the post of Inspecting Officer as per Recruitment Rules. So his appointment cannot be challenged for lack of qualifications and moreover, he also belongs to OBC category. The applicant has also not been able to prove if he has been found better in interview than the applicant.

8. In the result, we are of the opinion that applicant has failed to establish any particular malafide on the part of SSB which has recommended the name of respondent no.3 for appointment to the post of Inspecting Officer. No good ground has been made out by the applicant to interfere in this O.A. It is, therefore, dismissed. No costs.

  
( M.P. Singh )  
Member (A)

  
( Kuldip Singh )  
Member (J)

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