

(54)

Central Administrative Tribunal
Principal Bench

OA 1514/95
MA 151/2000

New Delhi this the 27th day of March, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J)
Hon'ble Shri V.K. Majotra, Member(A).

1. Prabhu Lal,
S/o Shri Puran Ram,
R/o 5/171, Lalita Park,
Laxmi Nagar,
Delhi.
2. Mam Raj,
S/o Shri Hem Chander,
R/o 407, Chirag Delhi,
New Delhi. ... Applicant.

None present.

Versus

- 1 Union of India through
Secretary, Ministry of Finance,
(Department of Revenue),
New Delhi.
2. The Chairman,
Central Board of Direct Taxes,
North Block,
New Delhi.
3. Chief Commissioner (Admn.),
Income Tax Office,
IP Estate, New Delhi. ... Respondents.

None present.

O R D E R (ORAL)

Hon'ble Shri V.K. Majotra, Member(A).

The applicants have challenged the rejection of their representation on 6.7.1995. The representation was made in compliance with the judgement of this Tribunal in O.A. 673/89 and O.A. 1085/89 dated 25.3.1994. The aforesaid O.As were disposed of with the following directions:

BS

"If the petitioners file an appropriate representation within one month from this date furnishing the relevant facts and materials in support of their case and furnish reasons in support of their claim, the same shall be examined by the respondents afresh and disposed of by a reasoned order, after giving an opportunity to other persons likely to be affected by any decision that they may take in regarding to the assignment of appropriate seniority to the petitioners. It is enough having regard to the complicity of the matter to direct that the authorities shall dispose of the representation as expeditiously as is reasonably possible. No costs".

2. Later on, the applicants have amended their O.A. They have sought directions to the respondents to consider their names for promotion to the post of Income Tax Officer. Applicant No.1 was appointed as LDC on 17.1.1970. He was promoted in September, 1975 as UDC and again as Tax Assistant in 1984. He was finally promoted as Income-Tax Inspector in 1990. Applicant No.2 was directly appointed as UDC on 15.2.1980. He qualified the Income-Tax Inspector's examination held in June, 1988. The result of the said examination was declared in December, 1988 and as such his name was not considered for promotion by the DPC held in October, 1988. He was promoted as Income-Tax Inspector in February, 1992. He qualified the Departmental Examination for the post of Income-Tax Officer. According to the applicants, the respondents have promoted 54 persons in the cadre of Income Tax Inspectors; out of 54 promotions, there were only 7 persons belonging to SC and ST. It has been alleged that the respondents have ignored the claim of SC and ST candidates and they chose to dereserve the vacancies. The applicants submitted a detailed representation in pursuance of the Tribunal's judgement dated 23.5.1994 in

O.A.673/99 and O.A.1075/89. The respondents rejected their representation without considering the facts and without proper application of mind. It has been claimed that applicant No. 2 had been shown in the proposed panel for promotion to the post of Income Tax Officer vide list dated 20.7.1995 at Serial No. 104 i.e. at the bottom of the list. However, if the applicants were allocated seniority in the cadre of Income-Tax Inspectors on the basis of their promotion to the post of Income-Tax Officer w.e.f. 1988-1989 or 1990 against a reserved quota vacancy, they would be promoted as Income-Tax Officer against a reserve quota vacancy on 40 point roster system. According to the applicants, the respondents have not maintained any seniority list. The applicants have sought quashing of the order of rejection of their representation dated 6.7.1995 and also a direction to the respondents to consider their representation afresh keeping in view the details of the vacancies and the roster point system for making promotions to the post of Income-Tax Inspector in the years 1988, 1989 and 1990. They have further sought a direction to the respondents to consider the name of applicant No. 2 for promotion to the post of Income-Tax Officer against a reserve quota vacancy from the panel of 1995.

3. In their counter, the respondents have admitted that the applicant ^{who} has qualified the departmental examination but only after the DPC meeting had been held, thus his interest has not been adversely affected. The respondents have maintained that they have fully followed the instructions of the Govt. of India in regard to the reserved posts for the SC/ST employees. The respondents have gone ^{on to} explain that since the seniority

list in the cadre of Inspectors is disputed in view of Rafat Ullah's case and the effect of said judgement is yet to be given which has not been possible for them at this stage to determine the exact seniority of promotee officials in the cadre of Inspectors. They have assured that the promotions which are being made to the post of Income-Tax Officer would be reviewed in the light of the seniority on the ~~basis~~^{post} of Income-Tax Inspectors as and when finalised. The applicants have filed a rejoinder as well.

4. We have perused the material available on record.
5. From the respondents' own admission, we find that the seniority list in the cadre of Inspectors has been in dispute and they have not yet given the effect of the judgement in the case of Rafat Ullah. Consequently, they seem to have given ad hoc promotions to Income-Tax Inspectors to the post of Income-Tax Officers and planned to review the same promotions as and when the seniority list on the ~~basis~~^{post} of Income Tax Inspectors is finalised. Unfortunately, the present position ~~as respects~~^h ~~has spells~~ of the progress of the finalisation of the seniority of promotee officers in the cadre of Inspectors and review of the ad hoc promotions on the post of Income-Tax officers has not been conveyed to us as neither party have appeared before us when the case has been taken up for final hearing.
6. We also find from the order dated 6.7.1995 that the respondents while rejecting the representation of the applicants in compliance with the directions ~~of~~^{of} the Tribunal in O.A 673/89 and O.A. 1089/89 have not given a clear picture of the total number of posts in the cadre of Income-Tax Officers for which the DFC was held on 30.5.1998, the total number of vacancies

reserved for SC and ST categories and also as to how many officials were within the zone of consideration for vacancies reserved for different categories.

7. The above order certainly can be considered to be a speaking order and an order which is based on facts and law.

8. As regards M.A. 151/2000, the respondents in any case are expected to deal with the issues raised as ~~per the relevant~~ ^{regards the} reservation roster for the post of Income-Tax Inspectors/ Officers in the relevant years. M.A. is accordingly disposed of.

9. Having regard to the respondents' own contentions regarding non-finalisation of the seniority of promotee officers in the cadre of Inspectors and prospective exercise to be carried out for final promotion to the post of Income-Tax Officers as also the fact of order dated 6.7.1995 being a non-speaking and sketchy order, we find that it would be fit and proper for the respondents to consider the whole issue afresh keeping in view the detailed facts and relevant rules and instructions for reservation. The respondents are hereby directed to determine the seniority of promotee officers in the cadre of Inspectors if not already done, within a period of three months from the date of receipt of a copy of this order with intimation to the applicants. In case they have already determined the exact seniority of promotee officers in the cadre of Inspectors, the exact position should be intimated to them forthwith and their representation which they have already made in pursuance of order dated 25.3.1994 in O.A. 673/89 and O.A. 1089/89 should be reconsidered and answered fully giving details and reasons in accordance with law.

19. This O.A. is disposed of in terms of the above directions. No order as to costs.

V.K. Majotra
(V.K. Majotra)
Member(A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)