

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI:

O.A. NO.1811/95

New Delhi, this the 2nd day of May, 1996

Hon'ble Shri S.R. Adige, Member (A)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri Onkar Singh,
Peon,
Department of Tourist,
88, Janpath,
New Delhi.

... Applicant

By Advocate: Shri S.D. Kinra

Vs.

1. Union of India
through Secretary(Tourism)
Govt. of India,
Transport Bhawan,
Parliament Street,
New Delhi.

2. The Regional Director,
Govt. of India(Tourist Office),
(Department of Tourism),
88, Janpath, New Delhi.

3. Shri N.S. Sharma, Peon,
o/o Govt. of India,
Tourist Office,
88, Janpath,
New Delhi.

... Respondents

By Advocate: Shri M.K. Gupta

O R D E R (ORAL)

Hon'ble Shri S.R. Adige, Member (A)

The applicant Shri Onkar Singh is aggrieved by his non promotion as Daftry in the office of the respondents.

2. Shortly stated the applicant, who admittedly is senior to respondent No.3 Shri N.S. Sharma, was

considered by the D.P.C. in its meeting held on 5.7.95 for promotion to the post of Daftry. Earlier the Department of Personnel and Training in their letter dated 31.7.94 to respondents office had recommended initiation of immediate suitable action against the applicant for committing fraud and misappropriation in respect of L.T.C. facilities regarding a journey said to have been undertaken by him and his family from Delhi to Kanyakumari and back in the year 1990, on the basis of which investigation were initiated against him. Hence when the D.P.C. met on 6.7.95 to consider promotions for the post of Daftry, the applicant's case was kept in a sealed cover and respondent No.3 Shri N.S. Sharma was promoted.

3. During the arguments, Shri S.D. Kinra, learned counsel for the applicant has reiterated heavily upon the ruling of the Hon'ble Supreme Court in Union of India v. K.V.Janki Raman (1991(4) SCC 109). He has contended that as no chargesheet was served upon the applicant till the date of the D.P.C., this was not a fit case for keeping in a seal cover and the applicant could, therefore, not have been superseded by respondent No.3.

4. In the other hand Shri M.K.Gupta, learned counsel for the respondents has relied upon the Supreme Court ruling in DDA v.L.C.Khurana (1993(3) SCC 196), which after discussing the ratio in Janki Raman's case (Supra) has upheld the respondents DM dt.12.1.1988, wherein cases of



Govt. servants to whom sealed cover procedure would be applicable, covers those cases where a Govt. servant against whom an investigation of serious allegations of corruption, bribery or similar grave misconduct is in progress either by the C.B.I. or any other agency, department or otherwise. It may be mentioned that the said O.M. of 1988 had been partially modified by O.M. dated 14.9.92, but in so far as the sealed cover procedure covering cases of Govt. servants against whom investigations of serious allegations ^{were} in progress, that particular paragraph stood..

5. We have perused the contents of the Department of Personnel and Training's complaint dated 30.7.94 and it cannot be denied that the charges against the applicant are indeed serious, as it involves corruption and misappropriation of Govt. funds. It is also not denied that investigations were taken up ^{as} above on the basis of that communication dated 30.7.94.

6. Shri S.D. Kinra, learned counsel for the applicant has argued that the allegations relate to happenings which are alleged ^{to have taken place long back} and nothing further has been heard in the matter. He has also stated that if the charges

are established against the applicant, he would be prepared to refund any amount said to have been illegally misappropriated. That however is missing the point, because the fact remains that there were serious allegations against the applicant, which were under the investigation at the point of time when the D.P.C. met on 6.7.95 and in accordance with respondents D.M. dated 12.1.88, which was upheld by the Supreme Court in DDA v. L.C. Khurana's case (supra) the D.P.C. quite rightly placed the applicant's case in a sealed cover ^{and promoted the respondent No.3 instead.} ^{the} 7. In light of the above facts, we find ourselves unable to grant the relief prayed for by the applicant.

This O.A. is dismissed. No costs.

Lakshmi Swaminathan
(SMT. LAKSHMI SWAMINATHAN)
MEMBER(J)

S.R. Adige
(S.R. ADIGE)
MEMBER(A)

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