

Central Administrative Tribunal  
Principal Bench

....

O.A.No. 333/95

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New Delhi, this the 17th day of Jan., 1996

Hon'ble Shri B.K. Singh, Member (A)  
Hon'ble Dr. A.Vedavalli, Member (J)

Shri Khem Chand  
s/o Shri Yadav Dass,  
R/o IX/6296, Jain Mandir Gali,  
Gandhi Nagar, Delhi-110 031.

...Applicant

(By Shri G.S.Matta, Advocate)

Versus

1. Union of India through  
the Secretary,  
Government of India,  
Ministry of Home Affairs,  
New Delhi- 110 001.
2. Government of N.C.T. of Delhi,  
through the Chief Secretary,  
5, Sham Nath Marg,  
Delhi- 110 054.
3. Union Public Service Commission,  
Through Secretary,  
Dholpur House,  
Shahjahan Road,  
New Delhi.

...Respondents

(By Shri V.S.R.Krishna, Advocate)

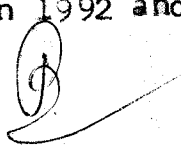
ORDER (Oral)

By Hon'ble Shri B.K. Singh, Member (A):

Heard the learned counsel for the parties.

The reliefs prayed for in this O.A. are to the effect that the applicant should be deemed to have been appointed under DANICS service Rule 25(3) after the expiry of six months. It is admitted that he was appointed under Rule 25(3) of the said Rules. He has compared himself with Shri Harish Chand Bhatia in whose <sup>case a</sup> judgement was given by the Tribunal in 1992 and an S.L.P. was also filed before

...2p/-



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the Hon'ble Supreme Court and the Appex Court in case of those who were appointed in the absence of regular D.P.C. meetings and continued for more than a decade were given the benefit of officiation from the date they were so appointed. Taking into consideration the quota system, the Rules envisage 50% promotion of eligible candidates through regular D.P.Cs on merit and 50% to be taken directly through open advertisement and on merit.

The learned counsel for the respondents argued that the applicant is not similarly situated as Shri H.C. Bhatia since in the case of the latter, there were no meetings of the D.P.C. but in the case of the applicant, there have been regular D.P.C. meetings and the case of the applicant was considered and since a disciplinary enquiry was pending the regular D.P.C. was kept in a sealed cover. The disciplinary enquiry has since concluded with a minor penalty of censure. The ratio of K.V. Jankiraman's judgement of the Hon'ble Supreme Court will hold good in this case. It is not a case of exoneration but it is a case of minor penalty <sup>imposed on</sup> ~~against~~ the applicant. Therefore, the reliefs prayed for in the present O.A. on the basis of the applicant being similarly situated as H.C. Bhatia, cannot be allowed and the entire tenor of the applicant's is also to the same effect. At this stage, the learned counsel for the applicant who is conscious of the ratio of the judgement in case of K.V. Jankiraman, wants to withdraw the application with liberty to file a fresh application moulding the reliefs prayed for in the instant O.A.

The application is dismissed as withdrawn with liberty granted to the applicant to file a fresh application, if so advised, according to law. No costs.

*A. Vedavalli*  
(Dr. A. Vedavalli)  
Member (J)

*B.K. Singh*  
( B.K. Singh )  
Member (A)