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Central Administrative Tribunal
Principal Bench
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O.A 1026/95

New Delhi, this the 5th day of June, 1995

Hon'ble Shri J.P. Sharma, Member (J)
Hon'ble Shri B.K. Singh, Member (A)

Mahendra Singh (Horticulturists),
son of Shri Jai Singh,
office of Dy. Director Horticulture,
11th Floor, M.S.O. Building, I.P. Estate,
New Delhi- 110 002.

... .. Applicant

(By Shri S.K. Duggal, Advocate)

Versus

1. Lt. Governor,
Govt. of Delhi,
Raj Niwas,
Delhi.
2. The Chief Secretary,
Govt. of Delhi,
5 Shyam Nath Marg,
Delhi- 110 054.
3. The Development Commissioner,
Govt. of Delhi,
5/9, Under Hill Road,
Delhi- 110 054.
4. Union Public Service Commission,
through its Chairman,
Shahjahan Road,
New Delhi.
5. Dr. Harbir Singh,
Dy. Director (Horticulture),
Development Department,
11th Floor, M.S.O. Building,
I.P. Estate,
New Delhi- 110 002.

... .. Respondents

(By None)

Judgement (Oral)

by Hon'ble Shri J.P. Sharma, Member (J)

The applicant is Horticulturist (B.L.) and the
next promotional post is of Deputy Director (Horticulture)

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The grievance of the applicant is, that the, applicant has now become eligible as per the recruitment rules for the post of Deputy Director (Horticulture) and the post is to be filled up by promotion failing which by transfer on deputation and failing both by direct recruitment. The contention of the applicant counsel is that the incumbent discharging the office of Deputy Director was taken on deputation on a vacancy which is fallen in 1992. The applicant has now completed 9 years of regular service to be considered for promotion. He has, therefore, filed this application on 31st May, 1995 and prayed for the grant of the reliefs that the respondents be restrained from extending the deputation period of respondent No.5 i.e. Dr. Harbir Singh and the applicant be considered for appointment to the post of Deputy Director Horticulture on ad-hoc basis.

We have heard the learned counsel Shri S.K. Duggal at considerable length. The contention of the learned is that the applicant should get the fruit of his nine years of standing and deputationist should be repatriated to his parent department as he was inducted from feeder post at a time when the eligible persons were not available.

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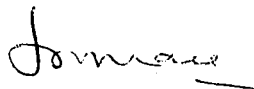
The learned counsel has pointed out that the mandatory provision in the recruitment rules is that the deputationist can retain the post ordinarily for three years. It is, therefore, argued by the learned counsel that the notice be issued to the respondents to file their reply for the grant of the reliefs referred to above.

We have considered the matter at considerable recruitment length. It is not disputed that the /mode provides that if the post is not filled by promotion then the same can also be filled by transfer on deputation basis when the primary mode of promotion fails. The deputationist has right to retain the post, ordinarily the period shall not exceed three years but where it should be extended beyond that, it is for the administration to see and the applicant cannot force his volition on the respondents to repatriate the deputationist to his parent department only because on date he has become eligible for promotion to the post.

The application is, therefore, totally pre-mature. The applicant can assail his grievance, if it survives, when the post is vacant. The application is, therefore, dismissed as pre-mature.


(B.K. SINGH)
MEMBER (A)

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(J.P. SHARMA)
MEMBER (J)