

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 1275 of 1997

New Delhi, this the 13th day of August, 1997 (8)

Hon'ble Dr. Jose P. Verghese - Vice Chairman (J)
Hon'ble Mr. N. Sahu, Member (A)

VV Marar, S/o late Shri GG Marar,
Or. No. 732, Sector 8, R.K. Puram,
New Delhi-110 022
Employed as Superintendent, N.M.E.P.,
Dte General of Health Services,
22 Sham Nath Marg, Delhi 110 054
(By Advocate - Shri K.B.S. Rajan)

- APPLICANT

Versus

1. Secretary, Department of Health &
Welfare, U.O.I., Nirman Bhawan,
New Delhi-110 001

2. The Director General of Health Services,
Nirman Bhawan, New Delhi-110 001 - RESPONDENTS

(By Advocate - Shri R.V. Sinha)

JUDGMENT (Oral)

By Dr. Jose P. Verghese, VC (J) -

The case of the applicant is that he has been working in the respondents' office since 27.1.1993 as Office Superintendent and he is seeking promotion to the post of Administrative Officer in the scale of Rs. 2375-3500/- . According to the recruitment rules 5 years' regular service as Superintendent of the Directorate is a requirement. The applicant is short of five months for completion of the said eligibility criteria. It was also stated by the counsel for the applicant that under Rule 5 of the recruitment rules the respondents have the power to relax the recruitment rules and such a discretionary power has been conferred in the interest of justice. It was also stated that on previous occasions in similar circumstances the respondents have in fact resorted to provisions of Rule 5 of the Recruitment Rules and

relaxed the requirement of 5 years' regular service in appropriate cases. It is also stated that such relaxation was due to their own policy decision reflecting in the letter dated 27.1.1988 in which it is stated that recruitment to the post of Administrative Officer is to be done on the basis of 100% promotion for the reason that there are 59 posts of UDC and equivalent cadre; one post of Head Clerk, one post of Store Superintendent and two posts of Superintendent; and 100% promotion will ensure chain promotions. It is stated that this being one of the highest post. It is not possible for every one to reach in their turn; and bringing an outsider through deputation will be contrary to the declared policy of the respondents themselves.

2. Considering that this is a fit case for applying the Rule 5 of the Recruitment Rules and consider the case of the applicant for relaxation, we had issued notice on this very specific reason; and the only requirement that has come in the way of the applicant is that he did not apply for relaxation in time and the selection procedure on the basis of deputation was also very much in advanced stage.

3. It was stated on behalf of the applicant that the actual vacancy that was going to be filled in arose only on 1.11.1996 but the respondents have proceeded to fill the said vacancy as an anticipated vacancy as early in the month of July, 1996 and the applicant could not have any means of knowledge that the said post is going to be filled up. It is stated that only when the circular for appointment on deputation was issued the applicant had sent a representation seeking the appropriate relaxation under the above said rule, along with the recommendation of the department.

4. In the circumstances we consider that this is a

fit case where the respondents shall first consider, specially in view of their own policy decision that there should be 100% promotion in the post, the applicant under the relaxed standard only on the requirement of the five years regular service and if the applicant is otherwise found suitable and eligible under the rules, the respondents may pass the appropriate orders in the circumstances. In case the applicant is found not suitable or not eligible then the respondents are given liberty to proceed with the selection procedure which is already in advanced stage; and posting of the incumbent on deputation shall be resorted to only after completing the procedure by which the respondents are required to consider the applicant in the first instance in accordance with the rules. With these directions, this Original Application is disposed of. No order as to costs.

N. Sahu
(N. Sahu)
Member (A)

J
(Dr. Jose P. Verghese)
Vice Chairman (J)