

Central Administrative Tribunal, Principal Bench

O.A. No. 409 of 1994

New Delhi this the 30th day of July, 1999

(2)

Gulab Singh Mehra
S/o Shri Chiranjit Lal,
Additional P.P.
Patiala House
New Delhi.

..Applicant

By Advocate: None.

Versus

1. The State of Delhi
(Through Chief Secretary)
Delhi Secretariates,
Delhi.
2. The Delhi High Court
(Through Registrar)
Sher Shah Road,
New Delhi. (Perfoma Party).
3. Shri Raj Kumar Bahri
Adv. Additional P.P. Delhi High Court,
New Delhi.
4. Shri Ashok Bhan, Adv. Addl P.P. Delhi High Court
5. Shri Kishan Kumar Manan, Adv. Addl. P.P. Delhi
High Court at New Delhi.
6. Ms. Sima Gulati, Adv. Addl. P.P. Delhi High Court
at New Delhi.
7. Shri Ashok Kumar Singh, Adv. addl. P.P. Delhi High
Court at New Delhi.
8. Ms. Meera Bhatia, Adv. Addl. P.P. Delhi High
Court.
9. Sh. Kailash Chand Gambhir, Adv. Addl. P.P. Delhi
High Court at New Delhi.
10. Sh. B.M. Sabharwal, Adv. Addl. P.P. Delhi High
Court at New Delhi.
11. Sh. Gyan Swarup Sharma, Adv. P.P. Delhi High Court.
12. Sh. Hridaya Jot Singh Ahluwalia, Adv., Addl. P.P.
Delhi High Court
13. Sh. Snajeev Khanna, Adv. Addl. P.P. Delhi High
Court at New Delhi.
14. Sh. Om Prakash Faizi, Adv. Addl. P.P. Delhi
High Court, New Delhi.
15. Sh. R.D. Jolly, Adv. Addl. P.P. Delhi High
Court.

By Advocate : Miss Vibha Mahajan Proxy for Mrs. Avnish Ahlawat.

ORDER (ORAL)

SAHU, MEMBER(A).

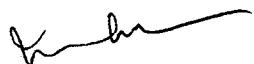
(13)

The applicant in this OA impugns the order dated 6.8.92 by which 13 Advocates were appointed as Additional Public Prosecutors for criminal work in the High Court of Delhi. The applicant states that such promotion should be made from out of the posts of Prosecutors and Additional Prosecutors now working under the Director of Prosecution of the Delhi Administration.

At the time of hearing none for the applicant was present. We have heard learned counsel Miss Vibha Mahajan Proxy for Mrs. Avnish Ahlawat who appeared as counsel for the respondents. We have perused the pleadings on record.

The reason for the claim in this O.A. is that the State Government is empowered to appoint Public Prosecutors/Additional Public Prosecutors to represent before the High Court under Section 24 (i) of the Cr. P.C. The contention of the applicant is that the promotion channel of the applicant should not be restricted only to the lower courts and District Court. He should be considered for promotion as Prosecutors before the High Court as well.

After notice the respondents filed the reply stating that the appointment of Advocate as Prosecutor in the impugned order is in consonance with Section 24 (i) and (ii) of the Criminal Procedure Code 1973. The respondents state that the applicants' claim for appointment as Prosecutors before the High Court is not maintainable and this Tribunal has no jurisdiction to entertain this claim under Section 19 of the Administrative Tribunals Act. Any appointment under Section 24 of the Cr.P.C.



(X)

cannot be challenged before the Central Administrative Tribunal. On merits it is stated that all those who are appointed in the cadre are only eligible for promotion under Section 24 (6) of the Code of Criminal Procedure for appearance in the District Court as Additional prosecutor and public prosecutor. There is a regular line of promotion for them to the cadre of Director, Chief prosecutor etc.

We have heard the arguments advanced by the learned counsel for the respondents. The State Government can appoint Additional public prosecutors within the frame work of 24 (i) and (ii) after prior consultation with the Delhi high Court. We have not been shown any infirmity in the impugned order dated 6.8.1992. There is no violation of procedure laid down for such appointment in the Cr. P.C.

It is settled law that prosecutors having regular cadre of their own would be promoted in their own cadre. The claim of promotion is not a matter of right.

We find no infirmity in the appointment order. The modes of appointment of public prosecutors in District Courts and the High Court are distinct and different and separate procedures are laid down for the same under the Cr. P.C.

In the circumstances as no violation of rule or procedure has been pointed out, we do not find any merit in this OA. The OA is accordingly dismissed. No costs.

N. Sahu

(N. Sahu)
Member A

trd

D.N. Baruah
(D.N. Baruah)
Vice Chairman