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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.NO. 1422/94

New Delhi, this the 23rd day of February, 1995

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

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

Shri Mahendra Kumar Meena,
s/o Shri Dev Lal Meena,
Village Kalarewa,
P.O. Dahikher, Teh. Khanpur,
Jhalawar(Raj).

... Applicant

By Advocate: Ms. Summet Kaur,

Vs.

1. Union of India
through its Secretary
Ministry of Information and
Broadcasting
Akashvani Bhavan,
Parliament Street,
New Delhi.

2. The Chairman,
Staff Selection Commission,
GGO Complex, Lodi Road,
New Delhi.

... Respondents

By Advocate: Mrs. Raj Kumari Chopra

ORDER(ORAL)

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

The applicant appeared for the post of Assistant in the year 1989 in the Ministry of Information & Broadcasting. But he was not given the appointment though he came out successful. He was told by the letter dated 8.9.93 that though he was selected and in pursuance of his representation dated 28.1.93 due to some administrative reasons his nomination for

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the post of Assistant was cancelled. The applicant has filed this application on 24.1.94 praying for the grant of the reliefs that the respondents be directed to appoint the applicant to the post of Assistant after declaring the cancellation of nomination to the post of Assistant Grade in the respondent organisation as invalid and that he should also be given seniority as per 1989 batch with consequential benefits.

2. On notice, the respondents contested this application and filed the reply taking the objection that the applicant has not exhausted departmental remedy as provided u/s 20 of the A.T. Act, 1985. He has directly approached the Tribunal for the grant of the reliefs. On the character verification of the applicant, it was found that the applicant cannot be considered for appointment in the Govt. service in the public interest. It is stated that the applicant has no case and at least he cannot be granted seniority in the batch of 1989 in view of the specific circumstances of the case. The Govt. has to see whether a selected candidate after selection is otherwise also suitable for appointment to the post after verification of his antecedents.

3. The applicant has also filed the rejoinder reiterating the same facts as stated in the original application. It is further stated that the murder case which was filed against the applicant and he was acquitted by the District and Sessions Judge, Jhalawar by the order dated 19.11.87 in Sessions case No.178/86, Against the aforesaid judgement, the

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the State of Rajasthan filed a criminal appeal u/s 378 Cr.P.C. and that criminal appeal came before the Jaipur Bench of Rajasthan High Court and the appeal was dismissed in limini as Appeal No.25/88 by the judgement dated 11.7.88. This was a State appeal.

4. It is not the angel that has ^{to serve} ~~observed~~ the Government but a person who is to be appointed should have antecedents which may not reflect in the future career of his service and make him unsuitable. It is a fact that the applicant was involved in a murder case but no stigma is attached to him as he has got clean acquittal which has been ultimately stamped by the High Court of Rajasthan. In view of this, if this is the only criteria for cancella-tion of the nomination to the post of Assistant, the action of the respondents is not fair and justified. The learned counsel for the respondents also stated that they are entering into the verification of these documents annexed with the original application and if authenticity of these documents is finally established, the applicant shall be taken in service and appointed to the post of Assistant as^a result of 1989 Assistant Grade Examination. The relief therefore prayed for by the applicant itself stands allowed by the above arguments advanced by the learned counsel for the respondents.

5. As regards the grant of seniority with the batch of 1989, the applicant himself has not adopted the procedure provided under law. Though the applicant was not a Govt. servant but even though who seek recruitment to the ^{post under} Central Govt. are covered by the

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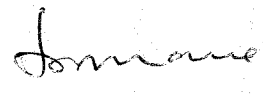
jurisdiction of the Tribunal and in that event are bound by the provisions of CAT Act, 1985. Section 20 lays down for application exhausting departmental remedies and thereafter can file an application u/s 19 of the A.T. Act, 1985. The applicant should have approached the respondents annexing the copy of the order of acquittal passed in November, 1987 by the Sessions Judge, Jhalawar and the order of the High Court of Rajasthan, Jaipur Bench dated 11.7.88 upholding the order of acquittal. We do feel that ^{with} it is a great constraint ^{with after} and a number of adjournments that the then counsel for the applicant has filed this copy of the order passed by the Jaipur Bench of High Court of Rajasthan. That was also not annexed with the O.A. as annexure. In fact, the present counsel also appears as proxy for the earlier counsel who represented the applicant and it was clearly observed in the ordersheet of 22.11.94 regarding the fact pointed out by the Departmental Representative that on character verification it was revealed by the concerned authorities that the applicant was involved in a murder case.

6. In view of the above facts we do find that the applicant cannot claim seniority with the batch of 1989. However, he has a claim to be placed if ^{with the subsequent batch} appointed at the bottom of that batch and as per roster point if he belongs to reserved category. The roster point cannot remain unfilled as the matter was under correspondence by the respondents themselves for character verification. Even if the applicant does not get that roster point, another S.T. candidate has to be provided ^{as} that roster point ^{as} that has remained unfilled.

However, we leave the matter to the discretion of the respondents.

7. The application is therefore partly allowed and disposed of with direction to the respondents to consider the appointment of the applicant as expeditiously as possible but not later than 3 months from the date of receipt of copy of this order and consider his seniority as per reservation point and other relevant rules applicable to such other candidates. If the applicant is appoint^{ed}, he shall be paid the emoluments ^{from} ~~on~~ the date he joins. Cost on parties.


(B.K. SINGH)
MEMBER(A)


(J.P. SHARMA)
MEMBER(J)

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