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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.No.1641/1994

New Delhi, This the 6th Day of September 1994

Hon'ble Shri C J Roy, Member(J)

Hon'ble Shri P.T.Thiruvengadam, Member(A)

Miglani

Shri Ramesh Kumar @ Shri R K Miglani
Aged 46 years Employed as a Lecturer(Maths)
D.I.E.T(District Institute of Education & Trg)
R/D "Z-A15, Street No.13, Main Road
Krishna Park, Tilak Nagar
New Delhi - 110018.

...Applicant

By Shri M L Chawla, Advocate with
Shri S L Lakanpal, Advocate

VERSUS

1. The Chairman,
Union Public Service Commission(U P S C)
Dholpur House, Shahjehan Road,
New Delhi - 110011.
2. The Chairman
District Institute of Education & Training
(D-I.E.T) Through the Chief Secretary
Delhi Administration - Govt of National
Capital Territory of Delhi
Old Rajendra Nagar,
New Delhi - 110060.

...Respondents

By Shrimati Raj Kumari Chopra, Advocate

O R D E R (Oral)

Hon'ble Shri C.J. Roy, Member(J)

1. Heard. This is a case where the applicant is an aspirant to the post of Principal in pursuance of an advertisement No.12 dated 2.7.93 by the UPSC who is the respondent in this case. In the said advertisement we see in item No.14 qualifications are fixed for the post of Principals and we also see that there are 46 posts, 26 male and 20 female. The applicant alleges that he is qualified for the post of principal and claims that he has applied for the post within time.

2. The applicant was not called for interview. To-day is the last date for interview. The applicant filed this OA and we heard both sides to-day. After hearing both sides we thought it fit to dispose of the main OA at the admission stage itself.

3. The applicant stated that his rejection amounted to discrimination and he is treated unequally amongst the equals.

4. The respondents has filed the counter stating that it is true that the applicant has applied for the post and since the posts are only 46 out of which 11 posts were reserved for SC candidates (6 male and 5 female respectively) and some 3 posts for ST candidates male and 2 posts for ST candidates female thereby out of 46 posts 17 posts for males and 13 posts for female candidates. For these posts a total number of 1050 applications have been received by the UPSC. After scrutinising all the applications it is the case of the respondents that they have shortlisted only 335 candidates and they have been recommended and called for interview.

5. The short question before us is whether the shortlisting is permissible or not. However, we see in para 4.6 of the application that the applicant alleges that non receipt of call for interview without any cogent reasons would tantamount to injustice, arbitrariness and illegality besides being discriminatory and mala fide. It is necessary to mention here that this applicant has never filed a representation to the UPSC nor obviously received any reply from the UPSC. Without any material at all alleging that it is arbitrary, mala fide and violation of article 14 and 16 of the Constitution

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cannot be treated as violation and hence this ground is rejected.

6. Now we are considering short listing is permissible by respondents or not. The learned counsel for the respondents has taken us to various judgements and also filed copies of the judgement in DA 1218/1992 in Nilotpol versus UPSC decided by the Principal Bench on 4.1.93 in which the Hon'ble Members observed in para 3 that we cannot find any fault with the criteria adopted by UPSC considering the very large number of applications which they have received. Short listing has to be done which means all the candidates were considered and a list of lesser number of candidates was prepared. They further observed that there is no discrimination and that there is a rational behind the action of the UPSC. The learned counsel for the respondents relied on another case reported in ATR 1989(2)CAT 13 Smt Jitendra Gauha Vs UPSC and another. In this case same issue is considered and more or less the judgement is on the same lines.

6. The learned counsel for the applicant has also cited a case reported in Service Law Journal Volume 3 page 512 and drew out attention to para 9 of Bachhittar Singh Versus State of Punjab case.

Para 9. The question, therefore, is whether he did in fact make such an order. Merely writing something on the file does not amount to an order. Before something amounts to an order of the State Government two things are necessary. The order has to be expressed in the name of Governor as required by cl(1) of Art.166 and then it has to be communicated. As already indicated, no formal order modifying the decision of the Revenue Secretary was

ever made. Until such an order is drawn up the State Government cannot in our opinion, be regarded as bound by what was stated in the file. As long as the matter rested with him the Revenue Minister could well score of his remarks or minutes on the file and write fresh ones."

7. This observation has been made in a different context and we do not find it to the help of the applicant's case. The main point of short listing for which judgements cited by the learned counsel for the respondents are more relevant. Therefore, we have no hesitation to accept the contention of the respondents and the OA is dismissed at the admission stage itself. No costs.

P. J. Roy

(P. T. THIRUVENGADAM)
Member (A)
6-9-94

M. J. Roy
(C. J. ROY)
Member (J)
6-9-94

LCP