

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

(13)

O.A. No. 1930 of 1994

New Delhi, dated the 14th May, 1996.

HON'BLE MR. S.R. ADIGE, MEMBER (A)

HON'BLE Mrs. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri K.S. Malhotra,
Junior Staff Officer
(Central Training Institute),
Directorate General of
Home Guards and Civil Defence,
Rajouri Garden,
New Delhi.

APPLICANT

(By Advocate: Shri R.K. Kamal)

VERSUS

1. National Capital Territory
of Delhi through
the Lt. Governor,
Raj Niwas,
Delhi-110054.

2. The Chief Secretary,
Govt. of NCT of Delhi,
5, Sham Nath Marg,
Delhi-110054.

3. The Commandant General,
Home Guards-Cum-Director,
Civil Defence,
Raja Garden,
Near Shivaji College,
New Delhi-110027.

4. Shri R.K. Sharma, IPS
Commandant, Home Guards,
Raja Garden,
Near Shivaji College,
New Delhi-110027.

RESPONDENTS

(By Advocate: Shri Vijay Pandita)

JUDGMENT

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

We have heard Shri Kamal for the
applicant and Shri Vijay Pandita for the
respondents.

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(X)

2. In so far as prayer (i) is concerned, namely quashing of impugned orders dated 14.7.94 (Ann. A-1) and 29.7.94 (Ann. A-2), Shri Kamal has himself admitted that Shri R.K. Sharma, IPS is no longer looking after the work of Commandant (CTI) and hence this order dated 14.7.94 does not survive. As regards, impugned order dated 29.7.94, we note that the same has been passed by the respondents in implementation of the Tribunal's judgment dated 18.2.94 in O.A. No. 2353 of 1993 K.S. Malhotra (present applicant before us) Vs. L.G. Delhi & Ors. No foundation has been laid to warrant interreference in that order and as the same has been issued, pursuant to the Tribunal's judgment, the prayer to quash the same is rejected.

3. In so far as prayer (ii) is concerned, namely to consider the applicant for promotion to the post of Commandant (CTI) in accordance with extant Recruitment Rules, meaning thereby the Recruitment Rules as they stood prior to their amendment vide Notification dated 16.3.95, we note that the applicant had earlier filed O.A. No. 2719/91 in which one of the reliefs specifically prayed for was consideration for regular promotion as Commandant (CTI) w.e.f. 1.11.91 i.e. prior to the amendment of the Recruitment Rules. In the judgment dated

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12.3.92 disposing of that O.A. it was noted that the Recruitment Rules were then under amendment and the Tribunal held

"It is for the Govt. to decide as matter of policy whether or not a post which has fallen vacant should be filled and if so the timing of the same. In the instant case the decision of the Govt. not to fill up the post of Commandant on a regular basis till the draft recruitment rules, are finalised cannot be faulted on legal or constitutional grounds."

By that judgment no direction was issued to the respondents to consider the applicant for regular promotion w.e.f. 1.11.91 i.e. prior to the amendment of the recruitment rules, and that prayer having been raised in O.A. No. 2719/91 and specifically not having been acceded to after adjudication, cannot now be revived afresh in this O.A. as it is hit by the doctrine of Res judicata. In that back ground the case of Y.V. Rangaiah Vs. UOI 1983 SLR (1) 789 relied upon by Shri Kamal does not help the applicant.

4. This O.A. therefore fails and is dismissed. No costs.

Lakshmi Swaminathan

(Mrs. LAKSHMI SWAMINATHAN)
Member (J)

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(S.R. ADIGE)
Member (A)

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