

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2015/94
T.A. No.

199

DATE OF DECISION 1-4-97

Petitioner

Shri Surash Kumar Sharma

Advocate for the Petitioner(s)

Shri P.P. Khurana

Versus
Govt. of NCT Delhi through Chief
Secretary and others

Respondent

Shri Jog Singh for the official
respondents.

Advocate for the Respondent(s)

Shri G.D. Gupta for the private respondents

CORAM

The Hon'ble Mr. S.R. Adige, Member (A)

The Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

1. To be referred to the Reporter or not?

2. Whether it needs to be circulated to other Benches of the Tribunal?

Lakshmi Swaminathan
 (Hon. Lakshmi Swaminathan)
 Member (J)

(32)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

0.4.2015/94

New Delhi this the 1st day of April, 1997

HON'BLE SHRI S.R. ADIGE, MEMBER(A).
HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER(J).

Suresh Kumar Sharma,
S/o Shri Dhaniram Sharma,
R/o C-695, Delhi Administration Flats,
Timarpur,
Delhi-54.

.... Applicant.

By Advocate Shri P.P. Khurana.

VERSUS

1. Government of National Capital
Territory of Delhi,
through the Chief Secretary, Delhi,
5, Sham Nath Marg,
Delhi.

2. Language Department,
through the Secretary (Language),
Govt. of NCT of Delhi,
Old Secretariat, Delhi.

3. Ram Kishan, Technical Assistant(Hindi),
Office of the Language Department,
Old Secretariat, Delhi. Respondents.

Shri D.D.Dhingra, Asstt. Departmental representative, on behalf
of official respondents.

By Advocate Shri G.D. Gupta - for private respondent.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant, who is working as Technical Assistant (Hindi), has filed the present application against the appointment of Respondent 3 as Hindi Officer on ad hoc basis by order dated 2.3.1990. He has also submitted that he is aggrieved by the action of the respondents in seeking to hold DPC for consideration for promotion to the post of Hindi Officer on regular basis by order dated 22.8.1994 as he submits that the assessment of the applicant would be made on the basis of confidential report which had been written by Respondent 3 who was himself the candidate for the post which was, therefore, illegal. He relies on the judgement in Dr. S.P. Kapoor Vs.

83/

(33)

State of Himachal Pradesh, AIR 1981 SC 2181. The applicant has sought quashing of the order dated 2.3.1990 and for a further direction to the respondents to consider his case along with the other eligible candidates for the post of Hindi Officer taking into consideration the confidential report upto 1990 only.

2. It is an admitted fact that the post of Hindi Officer is a selection post. The applicant has himself submitted that the vacancy which arose in 1990 was to be filled by a Scheduled Caste candidate and he belongs to the general category. Further, he has also submitted that even though the DPC had been held and Respondent 3 who belongs to the Scheduled Caste community had been selected for promotion as Hindi Officer against the vacant post in 1990, since the respondents realised that they could not fill up the post on regular basis, the appointment of Respondent 3 was made only on ad hoc basis. According to the applicant, Respondent 3 ought to have been reverted and his appointment should have been cancelled and the seniormost Technical Assistant (Hindi) should have been promoted on ad hoc basis. The applicant had also submitted a representation on 7.9.1994 before filing this O.A. on 3.10.1994 raising the same issues.

3. We have considered the averments advanced by the learned counsel for the applicant as well as the pleadings and submissions made by the learned counsel for the respondents.

Yours

3A

4. Since admittedly the vacancy for the post of Hindi Officer which arose in 1990 was a reserved vacancy, the applicant who belongs to the general category could not have been appointed in that post. Respondent 3 Shri Ram Kishan had been recommended by the DPC for promotion to the post of Hindi Officer but as no clear vacancy was available at that time, he had been appointed on ad hoc basis rather than regular basis which cannot be faulted. Although in the reply filed by Respondents 1 and 2, it has been stated that the ad hoc appointment of Respondent 3 had been extended upto 31.12.1992, Respondent 3 who was present in court at the time of hearing affirmed that he was still continuing in that post as Hindi Officer. In the facts of the case, therefore, since Respondent 3 who is a Scheduled Caste candidate and is eligible to be considered for the post of Hindi Officer was available for such consideration in 1990, the action of the Respondents to appoint him on ad hoc basis by order dated 2.3.1990 is in order. The respondents have stated that the post fell vacant on regular basis w.e.f. 1.8.1994 consequent upon the retirement of one Smt. Sneh Lata w.e.f. 31.7.1994. Merely because the respondents had asked for the work, conduct and integrity during service of four Technical Assistants (Hindi) for considering their names for promotion to the post of Hindi Officer, including that of the applicant, does not necessarily mean that he will be considered for the post against a reserved vacancy. The applicant's name for promotion can be considered only against a vacancy available for general candidates and not against that reserved for SC candidates. In the facts of the case, therefore, we find no merit in this application for quashing the appointment order of Respondent 3 dated 2.3.1990. Apart from the fact it is also time barred and this prayer is

192

(35)

rejected. Since there is no vacancy in the post of Hindi Officer against which the applicant could be considered in the general category, we find no substance in the other prayers also.

5. In the result, the application fails and it is dismissed. No costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

Aruligai
(S.R. Adige)
Member (A)

SRD