

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1222/2000

New Delhi this the 6th day of July, 2000.

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HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

Sakti Prosad Datta,
Upper Division Clerk,
Sarvodaya Kanya Vidyalaya,
Kondli, Delhi-110091.

... Applicant

(By Shri Inderjeet Sharma, Advocate)

-Versus-

1. Secretary (Finance),
Govt. of NCT, Delhi,
5, Alipur Road, Delhi.
 2. Controller of Accounts,
Govt. of NCT of Delhi,
Gokhle Road, Mori Gate,
Delhi.
 3. Controller General of Accounts,
Department of Expenditure,
Ministry of Finance
through its Secretary,
7th Floor, Lok Nayak Bhawan,
New Delhi.
- ... Respondents

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

Applicant had appeared in the Combined JAO/SAS Part-I/II Examination held in January, 1995 for appointment in the Delhi Administration Accounts Service. In the said examination, applicant had secured a mere 34% marks in Public Works Accounts paper whereas the minimum qualifying marks were 40%. Out of a total of 200 marks, he had obtained 68 marks. He had, therefore, a shortfall of 12 marks. By the present O.A., applicant claims promotion on the basis of relaxed standards provided for SC/ST candidates,

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which, according to applicant, are also applicable to candidates who are physically handicapped like applicant.

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2. As far as the said claim is concerned, the same was earlier made by applicant by instituting O.A. No.493/1996. By a judgment and order passed on 22.7.1997 the ^{very} same claim was negatived and the O.A. was dismissed by this Tribunal by observing :

"6. In this connection, the Hon'ble Supreme Court in their judgment dated 1.10.96 in Civil Appeal No.12676/96 S.Vinod Kumar & another Vs. UOI & Ors. has held that the provision for lower qualifying marks or lesser level or evaluation in the matter of promotion is not permissible under Article 16(4), in view of the command contained in Article 335 of the Constitution.

7. In view of the above, the OA is dismissed. No costs."

3. After the dismissal of the O.A., applicant appears to have made a fresh representation on 14.2.2000 staking the very same claim. The present O.A. has now been instituted once again staking the ^{very} same claim which has been rejected by the aforesaid ^{earlier} order passed by the Tribunal. Applicant has placed reliance on a decision of the Supreme Court in the case of Haridas Parsedia v. Urmila Shakya & Ors., 1997 (7) SCALE 152. The aforesaid decision, in our view, does not deal with promotions. The same pertained to 20% posts to be filled up by a limited direct recruitment confined to the candidates working

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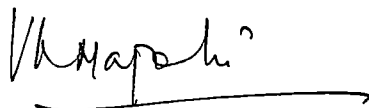
in the clerical cadre, the same being the source from which such recruitment of departmental candidates could be effected as per the Rules.

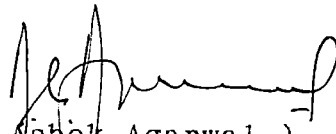
(X)

4. Shri Inderjeet Sharma, the learned counsel appearing on behalf of applicant has, however, stated that the present issue whether relaxed conditions can be made applicable at the promotional level also, is an issue which has been referred by the Supreme Court to the Constitution Bench and the same is pending consideration. (Rohtas Bhankhar & Ors. v. Union of India & Anr., (2000) 2 SCC 366).

5. Be that as it may, we find that the present O.A. cannot be entertained as the same is barred by res judicata or principles analogous to res judicata. This is so in view of the aforesaid decision of this Tribunal dated 22.7.1997 in O.A. No.493/96. As far as the applicant is concerned, the aforesaid decision is binding on him. The aforesaid issue cannot be re-opened by him, at least as far as this Tribunal is concerned.

6. Present O.A., in the circumstances, is summarily rejected.


(V. K. Majotra)
Member (A)


(Ashok Agarwal)
Chairman

/as/