

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.2439/2000

New Delhi this the 24th day of April, 2001.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

Sh.Susheel Kumar Kalra  
S/o Shri Om Parkash  
R/O 455, Sector-IX, R.K. Puram  
New Delhi-110022.

... Applicant.

( By Shri C.Hariharan, Advocate  
with Shri Chittaranjan Hati, Advocate)

-versus-

1. Union of India through  
the Secretary  
Legislative Department  
Ministry of Law, Justice and  
Company Affairs  
Shastri Bhawan, New Delhi.
2. Union Public Service Commission  
Through its Secretary  
Dhol Pur House, Shahjahan Road  
New Delhi.
3. Mrs. Anita Taneja  
working as Confidential Superintendent  
Legislative Department  
Ministry of Law Justice and  
Company Affairs  
Shastri Bhawan  
New Delhi

... Respondents

(By Advocates Shri N.S.Mehta, for  
respondent No.1, Mrs. B. Rana for  
respondent No.2 and Mrs.Meera Chhibber  
for respondent No.3.)

O R D E R (ORAL)

Shri S.A.T.Rizvi, Member(A):-

Applicant impugnes respondents' notification  
dated 27.9.2000 by which Smt. Anita Taneja,  
respondent No.3 herein has been appointed to the post  
of Confidential Superintendent in the office of  
respondent No.1 on deputation basis with effect from  
13.9.2000 in the pay scale of Rs.7450-11,500/-. The  
OA filed by the applicant has been contested by the

official respondent Nos.1 & 2 as also by the private

respondent No.3 (Mrs.Anita Taneja).

2. Briefly stated, the facts of this case are that the respondents by their circular of 6.8.1999 invited applications from eligible persons for appointment to the post of Confidential Superintendent in the Legislative Department of the Ministry of Law, Justice and Company Affairs notifying therein that the post was to be filled up by transfer on deputation/transfer method. The details concerning the method of recruitment, period of deputation etc. were annexed with the aforesaid circular. Applications were invited, inter alia, from Stenographers and Personal Assistants as well. In response to the aforesaid circular 4 applications were received which were duly scrutinised by the selection committee constituted under the Chairmanship of a Member of the Union Public Service Commission. The committee found three out of the 4 persons as eligible for being considered for appointment to the post of Confidential Superintendent. The applicant as well as the respondent No.3 both were included in the list of eligible candidates. The selection committee thereafter considered the comparative merits of the eligible candidates and made recommendations in favour of the respondent No.3. The applicant was also found fit but was placed in the waiting list drawn up by the committee at No.1. The private respondent No.3 has consequently been appointed by means of the impugned notification of 27.9.2000.

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3. We have heard the learned counsel of either side at great length and have also perused the material placed on record.

4. The learned counsel appearing in support of the OA has raised mainly three contentions, namely those dealing with the qualifications, comparative merit and bias in the process of selection. In-so-far as the question of qualifications is concerned, the details enclosed with the respondents' circular dated 6.8.1999 go to show that officers working in the Ministry of Law Justice and Company Affairs etc. possessing the <sup>3 following</sup> educational qualifications and ~~following~~ experience were eligible for making applications in response to the aforesaid circular:-

1. Degree in Law of a recognised University or equivalent.
2. 4 years experience of legal references, Legislative Drafting and research in Legal matters.
3. Knowledge of stenography.

5. The plea advanced by the learned counsel centres round the qualifications listed at Sl.No.2. He submits that whereas the applicant being a Section Officer has the requisite experience as provided in the aforesaid circular, the private respondent No.3 who was working as Personal Assistant does not possess the prescribed qualification of 4 years' experience of legal references etc. required for ~~the~~ selection purposes. In para 4.6 of the OA, the applicant has

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described the various responsibilities of a Section Officer and the same is supported by a letter dated 31.12.1998 (Annexure -C) which again goes on to describe the duties and responsibilities of a Section Officer. We have perused the same and find that ~~the~~ Legislative Drafting and research in legal matters is certainly not a part of the experience possessed by the applicant. Whether he has done the legal reference work or not is also open to question. We are inclined to agree however that as a Section Officer in the Ministry, the applicant must have remained engaged in examining proposals on subjects dealt with in his Section and it is possible to concede <sup>& that of</sup> there is application of mind in the work the applicant is called upon to do in normal course. We cannot, at the same time, say ~~that~~ <sup>&</sup> on the basis of whatever the applicant has been doing as a Section Officer <sup>& that the same &</sup> will really amount to the kind of experience needed in terms of the provisions made in the aforesaid circular dated 6.8.1999. The private respondent No.3, on the other hand, has been working as a Personal Assistant in the Law Commission and from there she has come over to the office of the respondent No.1 where she had been working <sup>again &</sup> as a Personal Assistant. The learned counsel appearing for the respondent No.1 submits that the Law Commission does considerable research work and makes important recommendations and, in this process, the private respondent No.3 working as Personal Assistant to the Secretary, Law Commission performs various functions

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such as preparation of notes etc. which could be said to correspond to the kind of experience laid down for appointment to the post of Confidential Superintendent. In normal course a Personal Assistant, we are aware, performs routine duties including collection of data, compilation of reports etc. <sup>and</sup> places material before the Secretary. However, it is not unlikely that while performing ~~her~~ duties as a Personal Assistant, the private respondent No.3 also had occasion to prepare notes of <sup>2 sundy</sup> ~~summary~~ subjects of relevance to the Law Commission. Despite this position, we are unable to convince ourselves that while working as a Personal Assistant in the Law Commission or later in the Legislative Department, the private respondent No.3 has acquired experience qualitatively and quantitatively better than the experience possessed by the applicant. We thus reach <sup>2 prima facie</sup> ~~the~~ conclusion that the applicant cannot be said to be a person possessing ~~the~~ qualifications more relevant to the job of Confidential Superintendent or else that he possessed merit of <sup>2 a</sup> higher order. We will, <sup>2 in any case,</sup> not like to pronounce on the aforesaid aspects finally inasmuch as that is an area reserved for the selection committee. <sup>In view of the rival contentions raised, we have only offered our comments in passing.</sup>

6. We will now take up the question of bias raised by the learned counsel appearing on behalf of the applicant. He has placed reliance on a decision of this Tribunal in the case of K.M. Agrahari v. Chief Secretary, Delhi Administration and others in TA No.832 of 1985 rendered on 2.8.1988. The learned

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counsel contends that the presence of a certain Joint Secretary of the Ministry in the meeting of the Selection Committee has resulted in bias in favour of the respondent No.3. He admits that the presence of the aforesaid officer need not have resulted in any bias against the applicant. We have perused the aforesaid judgement rendered by this Tribunal and find that in that case an officer by name ~~of~~ Shri Puri was similarly present at the meeting of the interview Board. However, in-so-far as the conduct<sup>etc.</sup> of said Shri Puri is concerned, the Tribunal has observed that his nomination by the Ministry was not in accordance with the provisions of the ~~procedural rules~~ rules made by the Union Public Service Commission and that the said Shri Puri was a rank outsider at the Interview Board. The Tribunal had also observed that the relationship between the said officer (Shri Puri) and the petitioner in that case had remained strained for several years. It was on this basis that the Tribunal had in that case observed that the selection made by the Interview Board was vitiated. In the present case, the circumstances which obtained in the aforesaid case are conspicuous by their presence. There is admittedly no bias against the applicant in so far as the said Joint Secretary is concerned. The learned counsel appearing for the applicant, while relying upon the aforesaid case, has argued that it is not bias in the negative sense which has ~~formed~~ <sup>lamed</sup> legitimate service interests of the applicant. On the other hand, ~~it~~ <sup>it</sup> is bias in the positive sense ~~operating~~ <sup>operating</sup>.

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in favour of the private respondent No.3 which has resulted in prejudice at the time of selection. We are not inclined to agree with this argument. The selection committee in the present case is headed by a Member of the Union Public Service Commission nominated by the Chairman of the Commission. The Joint Secretary concerned nominated by the Ministry who was present at the time of selection is admittedly not supposed to express his views about the competence etc. of any candidate. He sits through the selection committee merely to assist the selection committee in getting information <sup>including information</sup> about various candidates which may not be readily available <sup>with him</sup> and which may be possessed by the officer. Beyond this, the officer concerned has no role to play. In this view of the matter, we do not quite see <sup>how</sup> ~~that~~ the selection process ~~can~~ be said to have been biased in favour of the private respondent No.3. The selection committees constituted under the Chairmanship of the Members of the Commission are supposed to perform their functions impartially and without fear and favour. We have no reason to conclude that it was otherwise in the present case.

7. For the reasons outlined in the preceding paragraphs, we do not find any merit in the present OA. The same is dismissed. No order as to costs.

(S.A.T. Rizvi)  
Member (A)

/sns/

(Ashok Agarwal)  
Chairman