

(8)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

OA NO. 561/2000  
MA NO. 1843/2000

New Delhi, this the 11th day of August, 2000

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN (J)  
HON'BLE MR. GOVINDAN S. TAMPI, MEMBER (A)

In the matter of:

Prakash Chandra Jain,  
Aged about 55 years  
s/o Sh. Sukhlal Jain,  
at present posted as  
Additional Legislative Counsel (Hindi)  
Official Languages Wing,  
Legislative Department,  
Ministry of Law, Justice & Company Affairs,  
having office at I.L.I. Building,  
Bhagwan Das Road,  
New Delhi-110001 and resident of  
D-8-D, MIG, Mayapuri,  
New Delhi-64. .... Applicant  
(By Advocate: Sh. B.S. Banthia)

Vs.

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| 1. Union of India<br>through the Secretary,<br>Legislative Department,<br>Ministry of Law, Justice<br>& Company Affairs,<br>Shastri Bhawan,<br>New Delhi.<br>(By Advocate: Sh. R.N. Singh proxy for<br>Sh. R.V. Sinha) | 2. U.P.S.C.<br>Dholpur House,<br>Shahjahan Road,<br>New Delhi.<br>..... Respondents |
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ORDER (ORAL)

By Hon'ble Sh. V. Rajagopala Reddy, Vice Chairman (J)

MA-1843/2000 for impleadment is ordered.

2. Heard the counsel for the applicant and the respondents.

3. The applicant is a graduate in law and having 20 years of practice at the Bar. He was appointed as Deputy Legislative Counsel (Hindi) in the Official Languages Wing of the Legislative Department w.e.f. 9.5.88. He was promoted as Additional Legislative Counsel (Hindi) in 1996. He is presently working as Additional Legislative Counsel (Hindi).



(6)

For promotion to the post of Joint Secretary & Legislative Counsel (Hindi) the method of recruitment is by promotion failing which by transfer on deputation. The method of promotion is by way of selection. There were two vacancies in the post of Joint Secretary & Legislative Counsel. According to the applicant he was eligible for promotion as he fulfilled all the necessary qualifications. The grievance of the applicant is that without considering him for promotion the respondents are seeking to fill up the post by way of transfer on deputation. It is contended by the learned counsel for the applicant that the action of the respondents is in violation of the recruitment rules. Applicant, therefore, filed the present OA to consider him for promotion as Joint Secretary & Legislative Counsel.

4. It is stated in the counter affidavit that the applicant had in fact been considered for promotion by the Departmental Promotion Committee, which met on 19.8.99 which is headed by the Chairman/Member of the UPSC, but it did not find him suitable, The recommendation of the UPSC was also approved by the Appointments Committee of the Cabinet.

5. We have given careful consideration to the contentions raised. In view of the categorical statement made by the respondents in the counter affidavit that the applicant had been considered for promotion by the DPC and the recommendations made by the DPC had been approved by the Appointments Committee of the Cabinet, the OA has to fail.

6. Learned counsel for the applicant however submits, relying upon his own statements made in the rejoinder, that the applicant has been victimised in view of certain litigation in



the department concerning the applicant and hence the ACRs should be looked into by the Court. They have also filed an MA to that effect. Counsel, however, admitted that no allegations are made in the OA as regards any allegation against the DPC or concerning the proper writing of the ACRs. We are of the view that unless the foundation is made of the allegations in the OA, the allegations made in the rejoinder cannot be relied upon. Hence the MA-1911/2000 is also liable to be rejected.

7. In the circumstances, the OA is dismissed at the admission stage itself. There shall be no order as to costs.

( GOVINDAN S. TAMPI )  
Member (A)

'sd'

( V. RAJAGOPALA REDDY )  
Vice Chairman (J)