



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No. 1379/2020

Friday, this the 25th day of September, 2020

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)

Pawan Kaul s/o Shri Shiv Charan
Senior Secretariat Assistant (SSA)
Delhi Development Authority (DDA)
Vikas Sadan, New Delhi – 110 023

r/o KH No.486, Gali No.12
Jeevan Park, Near Bajrang Chowk
Siraspur, Delhi – 110 042

...Applicant

(By Advocate: Mr. Mohit Siwach)

Versus

Commissioner (P)/Appointing Authority
Delhi Development Authority
Vikas Sadan, INA
New Delhi – 110 023

...Respondent

(Mr. Arun Birbal, Advocate)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant was working as Junior Secretariat Assistant in the Delhi Development Authority (DDA). There is an avenue of promotion to the post of Senior Secretariat Assistant through promotion as well as through Limited Departmental Competitive Examination (LDCE). The



applicant took part in LDCE and was issued the order of promotion on 24.06.2019.

2. A complaint was received against the applicant, stating that a criminal case is pending against him for offences punishable under Sections 498-A/406/34 IPC and ignoring that, his promotion was effected. The respondents verified the same and it emerged that FIR No.183/2016 was filed against the applicant in the MM, Mahila Court No.01, Rohini, Delhi, and that a charge-sheet was also filed in that.

3. Taking into account, the judgment of Hon'ble Supreme Court in **Union of India etc. v. K.V. Jankiraman etc.** AIR 1991 SC 2010, the respondents issued show cause notice (SCN) to the applicant on 14.09.2020 directing him to explain as to why the order of promotion be not withdrawn. This O.A. is filed challenging the Show Cause Notice.

2. We heard Mr. Mohit Siwach, learned counsel for applicant and Mr. Arun Birbal, learned counsel for respondents, at the stage of admission, through video conferencing.

3. The challenge in this O.A. is to an Show Cause Notice. It is fairly well settled that an O.A. cannot be entertained against such notice, unless it is issued by an authority not vested with the power. It is not the case of the applicant that the authority, who issued the same, is not competent.



Though it is urged before us, that the respondents were very much aware of the pendency of the criminal case against the applicant when the promotion was being made, that is a matter to be taken into account by the respondents, in case the applicant submits his reply to the Show Cause Notice.

4. We, therefore, dismiss the O.A. It is brought to our notice that the applicant has already submitted his reply to the Show Cause Notice. It is needless to mention that if any adverse decision is taken, it shall be open to him to pursue the remedies in accordance with law.

There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

September 25, 2020

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