

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 14/86 & M.P. 77 1986.
T.A. No.

DATE OF DECISION 10th March, 1986.

Shri V.P. Aggarwal

Petitioner

Shri G.D. Gupta

Advocate for the Petitioner(s)

Versus

Union of India & Others

Respondents

Shri K.C. Mittal

Advocate for the Respondent(s)

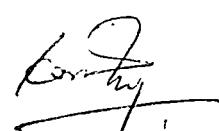
Shri H.R. Saini ... Caveator V/s. Shri V.P. Aggarwal... Respondent.

CORAM:

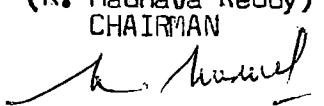
The Hon'ble Mr. Justice K. Madhava Reddy, Chairman.

The Hon'ble Mr. Kaushal Kumar, Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether to be circulated to all Benches?


(K. Madhava Reddy)
CHAIRMAN

10.3.86.


(Kaushal Kumar)
MEMBER

10.3.86.

CENTRAL ADMINISTRATIVE TRIBUNAL
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Regn. No. 14/86.

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M.P. No. 77/86

Shri H.R. Saini

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Caveator.

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Shri Justice K. Madhava Reddy, Chairman.
Shri Kaushal Kumar, Member.

Petitioner

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Through Shri G.D. Gupta,
Advocate.

Respondents

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Through Shri K.C. Mittal,
Additional Standing Counsel.

(Judgment of the Bench delivered by
Shri Justice K. Madhava Reddy, Chairman)

The petitioner, who is employed as Junior Aircraft Maintenance Engineer (JAME) in the Directorate of Agricultural Aviation attached to the Ministry of Agriculture & Rural Development (Department of Agriculture & Cooperation), New Delhi, prays for a writ, direction or order for quashing Memo No.1-18/84-Adm-I, dated 24th December, 1985 of the Government of India, Ministry of Agriculture & Rural Development, Directorate of Agricultural Aviation, New Delhi. By that Memo the petitioner was informed that he was not in the eligibility list at the time of sending D.P.C. Memo to the U.P.S.C. and as such his candidature for appointment as Senior Aircraft Maintenance Engineer (SAME) could not be considered. In paragraph 9 of his petition, he has stated that the five persons mentioned therein alone are being considered for appointment and as he appeared at Sl. No.6 immediately after Shri H.R. Saini, he is being ignored on the ground that he did not fall within the zone of consideration. He claims that Shri J.P. Verma,

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Shri K.S. Tiagi and Shri V.K. Srivastava, who are impleaded as respondents No.4, 5 and 6 to this Writ Petition are already holding higher posts either on promotion or on appointment through the UPSC and there is little possibility of their coming back to the posts of Junior Aircraft Maintenance Engineer on which they hold lien and, therefore, five JAMEs excluding those three should have been considered for appointment. It is the petitioner's case that although the vacancies arose earlier, since they were sought to be filled up in 1986 when respondents No.4, 5 and 6 are already holding senior posts, he should also have been considered as he falls within the zone of consideration.

2. When this matter came up for hearing on 6th March, 1986, the respondents stated that they may concede the request of the petitioner. They have since issued a Memo No.32-8/84-PPI, dated the 5th March, 1986 from the Government of India, Ministry of Agriculture (Department of Agriculture & Cooperation) to the Secretary, Union Public Service Commission, New Delhi, conveying the decision of the Government to consider the petitioner also, who is the next below officer for appointment. A copy of that letter has been filed before this Tribunal to-day and also given to the petitioner. In view of the aforesaid decision of the respondents, the petitioner does not wish to press and seeks to withdraw his petition. But even on 21.1.1986, Shri H.R. Saini, Junior Aircraft Maintenance Engineer, who is also being considered for the post of Senior Aircraft Maintenance Engineer and in regard to whom the petitioner has no objection, filed a petition that he be impleaded as a party respondent to this petition. He opposes the petitioner's request that he also should be considered by the UPSC. How far the concession now made by the respondents is valid in issuing the letter dated 5th March, 1986 to the UPSC, it is not necessary for this Tribunal to go into this petition. Having regard to the fact that the petitioner does not wish to pursue this petition and seeks to withdraw the same in the circumstances stated above, it is unnecessary for us to go into the merits of

this petition. No third party can compel a petitioner to pursue his petition or ask the Tribunal to adjudicate on merits when the petitioner himself does not press it and wants to withdraw the same. However, any such concession made by the respondents in the petition now sought to be withdrawn and the withdrawal of this petition cannot affect any third party's rights. It is made clear that if the third party petitioner is aggrieved by anything contained in Memo No. 32/8/84-PPI, dated 5th March, 1986 or any action taken hereafter, he may pursue his remedy by way of a separate application, but his request that this petition O.A. 14/86 should not be allowed to be withdrawn and that he should be impleaded in this petition cannot be granted. M.P. 77 of 1986 is rejected subject to above reservation.

3. In view of the above, the petitioner is permitted to withdraw O.A. 14/86.


(K. Madhava Reddy)

CHAIRMAN.

10.3.86.


(Kaushal Kumar)

MEMBER.

10.3.86.