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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A. No. 1459/1987.

Date of decision: February 9, 1993.

ASHWINI KUMAR LAL

...

PETITIONER

VS.

UNION OF INDIA,
THROUGH SECRETARY,
MINISTRY OF URBAN DEVELOPMENT,
NIRMAN BHAVAN, NEW DELHI.

RESPONDENTS

MUHAR SINGH,
ASSISTANT DIRECTOR,
NATIONAL BUILDINGS ORGANISATION,
NIRMAN BHAWAN, NEW DELHI.

CORAM:

HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.

HON'BLE MR. S.R. ADIGE, MEMBER (A)

For the petitioner ... None.

For respondent No.1 ... Shri P.P. Khurana,
counsel.

For respondent No.2. ... None.

JUDGMENT (ORAL)

(BY MR. JUSTICE V.S. MALIMATH, CHAIRMAN)

None appeared for the petitioner. As it is a very old case, we consider it appropriate to peruse the records, hear learned counsel for respondents and dispose of the matter on merits. The petitioner, Shri Ashwini Kumar Lal, who is an Assistant Director in the National Buildings Organisation, has in this petition prayed for a direction to promote him to the post of Deputy Director (Information) with retrospective effect as from the date on which the vacancy occurred. The petitioner actually approached the Tribunal for relief even before anybody was appointed. The petitioner himself has stated that the vacancy that occurred was

according to the roster regulating reservation was to be filled up from amongst the Scheduled Caste candidates.

What the petitioner says is that as on / date on which the vacancy occurred, there being no S.C. candidate and he being the seniormost candidate available, the respondent should be directed to promote him. The respondent No.2 Shri Muhar Singh was actually promoted on ad hoc basis during the pendency of the Original Application. He has also come on record as respondent No.2. Though the fact of respondent No.2 having been appointed is clearly pleaded in the replies filed by the authorities as well as respondent No.2, the petitioner has not chosen to amend the petition to challenge the appointment of respondent No.2 on ad hoc basis. The promotion of respondent No.2 not having been challenged, the question of interfering with his appointment would not arise.

2. Even otherwise, we are inclined to take the view that there is no good ground to interfere with the ad hoc appointment of respondent No.2. In the counter affidavit, it is stated that though Shri Muhar Singh, respondent No.2 was not qualified for appointment as on the date the vacancy occurred, he acquired such qualification within four months' time. By the time respondent No.2 acquired the necessary qualification, the vacancy reserved for the members of the S.C. had not been filled up. It is in this background that a request was made to the Government by the Department proposing the appointment on ad hoc basis of respondent No.2 in the vacancy reserved for a member belonging to

S.C. category. The Government gave permission to do so saying that this would be consistent with the principle of reservation policy which is to ensure that as far as possible, the vacancies reserved for the members of the S.C. are filled up by candidates belonging to that category. As no one had been appointed in that vacancy until respondent No.2 became qualified for promotion, the Government felt that this is a case where relaxation should be accorded to enable the authorities to appoint respondent No.2. It is expressly stated that the relaxation has been accorded as a one time measure. The Government has the power of relaxation, which, in our opinion, has been exercised for advancing the object of reservation. Hence, it cannot be said that relaxation is arbitrary and liable for interference. Hence, we see no good ground to say that ad hoc appointment of respondent No.2 is not in accordance with law so as to justify our interference in this case. The petition fails and is, therefore, dismissed. No costs.

Adige
(S.R. ADIGE)
MEMBER(A)

Maliath
(V.S. MALIMATH)
CHAIRMAN

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