

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 926 1987
T.A. No.

DATE OF DECISION 6.7.1987

Shri Hari Kishan Nahar

Applicant
Petitioner

Applicant in person

Advocate for the Petitioner(s)

Versus

Chief Commissioner of Income Tax
& others

Respondents

None

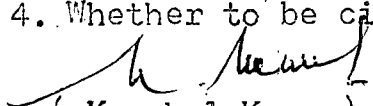
Advocate for the Respondent(s)

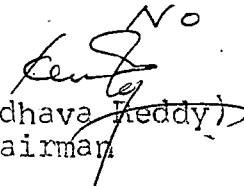
CORAM :

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 ? Yes
2. To be referred to the Reporter or not ? No
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. Whether to be circulated to all the Benches ? No


(Kaushal Kumar)
Member


(K. Madhava Reddy)
Chairman

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

REGN. NO. OA 926/87

Dated: 6.7.87

Shri Hari Kishan Nahar

..... Applicant

Vs.

Chief Commissioner of Income Tax Respondents
& others

Coram: Hon'ble Mr. Justice K. Madhava Reddy, Chairman
Hon'ble Mr. Kaushal Kumar, Member

For the Applicant

..... Applicant in person

For the Respondents

..... None.

(Judgement of the Bench delivered by Hon'ble Mr.
Justice K. Madhava Reddy, Chairman)

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant calls in question the orders of promotion to the post of Tax Assistant as issued by the Respondents vide No.Estt.2/NG-I/Prom./TA/87 dated 30.3.1987 and Estt.2/NG.I/Prom./TA/87/1896 dated 15.5.87 and prays that they may be declared as null and void. The main ground taken is that all Upper Division Clerks who have secured 40% marks in the Income-Tax Departmental Examination are declared qualified and no preference is given to those who have secured more than 50 per cent marks in the said examination. Although the applicant has not specifically averred in the application, at the time of hearing the application he stated that he has passed the Departmental Examination for Income Tax Inspectors securing more than 50 per cent marks and he should have been given preference over his seniors who have secured less marks than him in that examination. We are unable to agree with him. His own case^{is}/that the promotions are governed by the Policy contained in the communication addressed by the Ministry of Finance, Government of India dated 31.3.1978 to all the Commissioners of Income Tax which lays down as under:-

" The posts shall be filled entirely by
promotion from the cadre of Upper Division

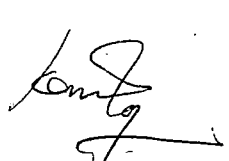
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Clerks, on 'selection' basis, on the recommendation of a duly constituted DPC. Only those UDCs who have rendered a minimum service of 3 years in that grade in the Department and who have secured at least 40% marks in the following subjects in the Income-tax Inspectors' Departmental Examination will be eligible for consideration for promotion to the post of Tax Assistants:-

1. Income-tax Law-I
2. Income-tax Law-II
3. Other Direct Taxes
4. Office Procedure "

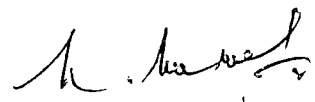
Unless the criterion laid down in the above-mentioned communication is held to be arbitrary and unrelated to the duties and responsibilities attached to the post, selection and promotion of the persons eligible as per that criterion cannot be held to be violative of any provisions of law or Constitution calling for interference by the Tribunal. It is not in dispute that only persons who fulfilled these qualifications and fell within the zone of consideration have been considered by the Departmental Promotion Committee and promotions were made strictly according to the selection made by the Departmental Promotion Committee. We are unable to agree with the contention of the applicant that those who have secured more than 50 per cent marks alone should have been considered and not those who have secured 40 per cent marks. Securing higher marks in the Departmental Examination cannot be the sole criterion for judging the merit of eligible candidates. That would certainly be kept in view by the Departmental Promotion Committee. It is not alleged that the Departmental Promotion Committee has committed any illegality or irregularity in making the selections. So long as all eligible candidates including the

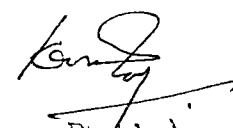


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applicant have been considered and no irregularity is brought to our notice, the appointments made in accordance with the select list drawn up by the Departmental Promotion Committee, cannot be interfered with and no directions restraining the Respondents can be issued.

2. We find no merit in this application; it is accordingly dismissed with no order as to costs.


(Kaushal Kumar)
Member
6.7.87


(K. Madhava Reddy)
Chairman
6.7.87