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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH NEW DELHI

Original Application No. 1154 of 1987

D.C. Dang Applicant

Versus

Union of India & Others Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Ms. Usha Savara, Member (A)

(By Hon'ble Mr. Justice U.C.Srivastava,VC)

The applicant who was appointed as Lower Division Clerk on 5.3.1965 in the Office of Commissioner of Income Tax, Delhi and thereafter ~~he~~ was promoted as Tax Assistant on 31.5.78 and also as Head Clerk on 3.8.1981. He also passed the departmental examination for Inspector, held in the year 1978, which made him eligible for promotion to the rank of Inspector. There were 58 posts of Inspectors which were lying vacant for quite some time out of which 11 were meant for S.C. and S.T. candidates, A Seniority list of eligible candidates ^{was} circulated on 8.8.1986 in which the applicant is at sl. no. 14. The grievance of the applicant is that the number of juniors to the applicant were promoted, while the applicant has not been promoted. The applicant made the representations against the same, but nothing was done by the respondents in this behalf. According to the applicant instead of giving any reply to the above representation, two more promotion ^{were} ~~was~~ made.

2. According to the applicant the verbal enquiries have revealed that the D.P.C. which met to consider the cases of eligible candidates, have decided the selection on the basis of last five years record of service and if that be so, the applicant's last five years record is good, in fact he has not earned any adverse report.

3. In the written statement filed by the respondents it has been pointed out that the recruitment to the post of Income-tax Inspector is made in accordance with the Income Tax Department (Inspector) recruitment rules, 1969. ^{As according to} ~~As according to~~ these

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rules, recruitment is made both by way of direct recruitment and departmental promotions. 1/3rd of the total vacancies are filled up by direct recruitments and remaining 2/3rd of the vacancies are filled up by promotions from departmental candidates who comprise of (a) Ministerial cadre and (b) stenographer's. According to the respondents, ^{have asserted that} the post of Inspector is a selection post. The case of the applicant alongwith other was duly considered by the D.P.C. but on comparative assessments, he did not make the requisite grade for empanelment and that's why he was not promoted.

4. The argument of the learned counsel for the applicant Mrs. Mukta Gupta ^{may be} is really ~~very~~ ^{temptative}, but here in this case we find that the no allegations against the member of selection committee or the process of selection has been made ^{nor is any} ~~and it has not~~ ^{been} challenged that the selection was arbitrary or mala fide. In the absence of any such challenge it is not possible for us to sit ~~in the judgement~~ over the assessment made by the departmental promotion committee, which consists of experts in the subject. The learned counsel made reference to the case, decided by this tribunal in Ranbeer Singh Vs. Union of India & Others A.T.R. (1987(CAT) wherein it has been said that where the juniors persons have been promoted and having received punishment and even charge from murder, included in the list and promoted, The court can sit in the judgement. Obviously, in that case the allegations in this behalf was made and incidently, in this case no such allegations have been made and vague allegations, regarding the assessment have been made.

5. Accordingly, the application has got to be dismissed, but with the observations, that whenever the question of promotion arises the case of the applicant should be considered in right perspective. ~~But~~ ^{It} is desirable that the department can even now re-consider the matter and compare the respective merit of the applicant from those, who have been promoted. ^{that} In case, it is found ^{the same may be rectified} some injustice have been done with the applicant, we

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expect that the department will rectify the same. With these observations, the application is disposed of finally. No order as to the costs.

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Member(A)

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Vice-Chairman

(RKA)

Dated: 23/12/98