

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

DA NO. 36/90

DATE OF DECISION: 9.7.90

SHRI K.M. AGRAHARI

APPLICANT

VERSUS

DELHI ADMINISTRATION

RESPONDENTS

SHRI B.B. RAVAL

ADVOCATE FOR THE APPLICANT

SHRI M.M. SUDAN

ADVOCATE FOR RESPONDENT
NO. 1 & 2

SHRI M.L. VERMA

ADVOCATE FOR RESPONDENT NO. 3

RESPONDENTS NO. 4 IN PERSON

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

JUDGEMENT

(Delivered by the Hon'ble Mr. I.K. Rasgotra, Member (A))

The applicant, Shri K.M. Agrahari filed DA-36/90 on 8.1.1990 challenging the appointment of Shri B.B. Arya, respondent No.4 as Sub-Regional Employment Officer (T) [SREO(T)] vide appointment letter No.EMP.5(4)/76/Admn./17447 dated 14.12.1989 based on the recommendation of the Union Public Service Commission (UPSC) consequent to the interviews held on 7.12.1989.

2) The applicant had earlier challenged the appointment of

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Shri B.B. Arya based on selection held by U.P.S.C. on 19.8.1982 in application No. TA-832/85 (CW-3180/82) which was decided by the Tribunal on 2.8.1988. The Tribunal had vide its judgement dated 2.8.1988 had passed the following orders:-

"In the result, we allow the petition and quash the selection made pursuant to the interview held on 19.8.1982. It will be open to the respondents to take such further or other steps in the matter as they may think fit. In the circumstances of the case the parties will bear their own costs."

The matter came up for judicial review in the Hon'ble Supreme Court vide Civil Appeal No.8184 of 1989, where their Lordships passed the following orders on 2.8.1989:-

"We are in agreement with the finding of the Tribunal that the presence of Mr. Puri had vitiated the proceedings before the Selection Board so far as the respondent K.M. Agrahari, is concerned. The Tribunal was, therefore, justified in quashing the selection made pursuant to the interview held on 19th August, 1982. The petitioners will be at liberty to hold the selection afresh by the Selection Board, but Mr. Puri, shall not be present in any capacity in the Selection Board. Respondent B.B. Arya, who was selected in the interview held on 19th August, 1982 and whose Selection stands set aside pursuant to the order of the Tribunal will be at liberty to continue in the post of Sub-Regional Employment Officer (Tech.) till fresh selection. If, in fresh selection that will be held as directed by the

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Tribunal and as approved by us, respondent B.B. Arya, is again selected, he will continue in the said post, otherwise he will cease to hold the said post, and will be entitled to revert to the post which he was holding immediately before his previous selection held on 19th August, 1982 and if he had any lien on any post which he was holding such lien will also revive. If any selection is held afresh, the respondent K.M. Agrahari will be entitled to be considered and no objection will be raised by the U.P.S.C. on the ground of his being over-age."

In pursuance of the above, the UPSC interviewed the candidates afresh by constituting a new Selection Board (excluding Mr. Purijon 17th December, 1989. The applicant, however, is not satisfied with the methodology adopted by the UPSC in the second selection and has challenged the same in the present OA. His contention is that the UPSC should have issued a fresh advertisement in the newspapers calling for fresh applications for the post S.R.E.O.(T) in accordance with the orders of the Hon'ble Supreme Court. The procedure followed by the UPSC therefore is not in accordance with the intent and spirit of the orders of the Hon'ble Supreme Court; the selection held in December, 1989 should be quashed.

2. The respondents No.1 and 2 in their reply filed on 17.3.1990 have submitted that the applicant had moved an application IA-4/1987 in Civil Appeal No.3184/89 in the Hon'ble Supreme Court praying for issue of directions to the UPSC for

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issuance of a fresh advertisement commencing the process of fresh selection in accordance with the Hon'ble Court's order dated 2.8.1989. The said application was dismissed by the Hon'ble Supreme Court on 19.12.1989. The respondent No.3 in his reply has brought out that the UPSC "held fresh selection in view of the directions of the Hon'ble Supreme Court dated 2.8.1989" and accordingly, a compliance report was submitted to the Hon'ble Supreme Court. After the selection was over, the case again came up before the Hon'ble Supreme Court by way of the CCP No.179/89, filed by the applicant. The said CCP was also dismissed on 19.12.1989, as the Hon'ble Supreme Court was satisfied with the selection held afresh by the Commission.

4. The submissions made by the respondents have not been controverted by the applicant.

5. In the facts and circumstances of the case, we do not see any merit in the present application. Accordingly, the application fails and is dismissed without any order as to the costs.

Subrata
(S. K. RABBGDFRA)
MEMBER(A) 9/7/90

Subrata 9.7.90.
(T. S. OBEROI)
MEMBER(J)