

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

(4)

DA 1243/91

Date of Decision : 13-12-1991

Shri Sayed Zeyaur Rehman Ghausi

Applicant

Mrs. Kamla Subramaniam,

Counsel for the Applicant

Versus

Delhi Admn. & Ors.

Respondents

Shri M.K. Sharma

Counsel for the Respondents

CORAM:

The Hon'ble Shri P.K. Kartha, Vice Chairman (J)

The Hon'ble Shri B.N. Dhoundiyal, Member (A)

1. Whether Reporters of local papers may be allowed to see the

2; .To be referred to the Reporter or not? ^{Yes} Judgement. ^J

(Judgement of the Bench delivered by

Hon'ble Member Shri B.N. Dhoundiyal)

The applicant, while working as Information Officer in the Delhi Administration filed this O.A. under Section 19 of the Administrative Tribunal Act, 1985, seeking the following reliefs :-

- (i) To quash the Departmental proceedings initiated against him under Rule 14 of the CCS (CCA) Rules, 1965 ; and
- (ii) to direct the respondents to consider his case for promotion to the Deputy Director's post against one of the two vacancies existing.

2. On 29-5-91, the Tribunal passed an interim order directing the respondents not to proceed with the enquiry proposed under Rule 14 of the CCS (CCA) Rules, 1965 against the applicant. On 13-6-91, the aforesaid order was modified to the extent that the respondents are free to proceed with the enquiry but no final order be passed in such enquiry of the interim order

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was continued till the case was finally heard and orders reserved thereon on 16-9-91.

3. The Applicant was appointed as an Information Officer in Delhi Administration through the U.P.S.C. on 16-12-1974 and was confirmed on 16-12-1977. He was promoted on ad-hoc basis as Deputy Director for six months from 9-2-89, but was reverted on 9-8-89. According to him, the respondents did not process his case for extension of ad-hoc promotion with the U.P.S.C., as had been done earlier in two cases, even though there were two vacancies in the grade of Deputy Director and he had all the requisite qualifications and experience as Information Officer. He apprehends that one Shri Sehrawat, who is ten years junior to him, is being groomed for this post. Shri Sehrawat has been given independent charge of some important divisions and also the privilege of visiting the press room while the applicant is made to assist a Deputy Director on the Research and Reference Section. He alleges that an enquiry has been initiated against ^{him and} ~~that~~ his C.R. dossier for the year 1989-90 is not being forwarded to the Border Security Force B.S.F. for consideration of his appointment as Information Officer in that organisation.

4. The respondents have stated in their counter affidavit that the work of the applicant was unsatisfactory and he could not be confirmed after the probation period of two years. In 1981, he was censured and in 1982, a penalty of reduction to

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a lower stage in the time scale of Rs. 650-1200 for a period of two years was imposed on him after a regular inquiry under Rule 14 of the CCS (CCA) Rules, 1965. In 1986, the D.P.C. did not find him fit to cross the efficiency bar. In February 1989, he was promoted as Deputy Director for a period of six months on adhoc basis. However his performance was not adjudged adequate to justify extension of ad-hoc period. One post of Deputy Director reserved for Scheduled Caste has been entrusted to an officer belonging to that category. The other vacant post of Deputy Director is yet to be filled up and his claim for the post will be considered as and when the DPC meets. An inquiry against him was instituted after due consideration with the approval of the Chief Secretary, Delhi.

5. We have gone through the records of the case and heard the learned counsel for both parties. The applicant has challenged the validity of the disciplinary proceedings initiated against him in the present application. In our view, no relief can be granted to him at this stage as no final order has been passed in the pending proceedings. After the final orders are passed, he will be at liberty to file a fresh application in the Tribunal in accordance with law, after exhausting the remedies available to him by way of appeal and revision under the relevant service rules.

6 The further question arising for consideration relates to the promotion of the applicant to the post of Deputy Director. The respondents have stated in their counter affidavit that the proposal to fill up the post of Deputy Director on regular basis

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was initiated by them but in the meanwhile the Metropolitan council was dissolved and it was not felt necessary to fill up the post "for the time being" and that the case of the applicant for such promotion would be considered whenever D.P.C. is held for filling up of the post. In our opinion: even though the applicant fulfills all the requirements for promotion to the post of Deputy Director and a vacancy in the said post exists, it will not be appropriate for the Tribunal to issue any direction to convene a meeting of the D.P.C. and consider the case of the applicant for promotion. It is for the respondents to decide as a matter of policy and exigency of service as to when a post is to be filled up. In case they decide to fill up the post of Deputy Director, it should however be in accordance with the relevant recruitment rules and for the year in which the vacancy arise.

7. In the light of the foregoing discussions, the application is disposed of with the following orders and directions :-

- (1) We leave open the question as regards the legality and tenability of the disciplinary proceedings initiated against the applicant by issuing the impugned memorandum dated 1-5-91. We, however, direct the respondents to complete the enquiry as expeditiously as possible but in no event later than 30-6-92 and pass final orders before the said date. The applicant should also fully cooperate in the holding of the enquiry. He will be at liberty to file

a fresh application in accordance with law in case he is aggrieved with the final order passed in the enquiry.

- (2) When the respondents decide to fill up the post of Deputy Director, it should be in accordance with the provisions of the relevant recruitment rules and the D.P.C. should consider the suitability of the applicant alongwith other eligible candidates. The D.P.C. should consider the suitability in the year of the occurrence of the vacancy irrespective of the year in which, the meeting of the DPC is convened. The D.P.C. shall also assess the suitability of the candidates on the basis of the previous records relevant to the year in which the vacancy occurred and it shall not taken into account the records of the subsequent period.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL)
MEMBER(A) 13/12/71

P.K. Kartha
(P.K. KARTHA)
VICE CHAIRMAN(J) 13/12/71