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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.NO. 1717/91

DATE OF DECISION: 14.02.1992.

SH. NAND LAL MODI

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APPLICANT

VERSUS

UNION OF INDIA & ORS.

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RESPONDENTS

CORAM:-

THE HON'BLE MR. D.K. CHAKRAVORTY, MEMBER(A)

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

COUNSEL FOR THE APPLICANT : SH. P.P. KHURANA

COUNSEL FOR THE RESPONDENTS : SH. M.L. VERMA

JUDGEMENT

(of the Bench delivered by Hon'ble Mr. T.S. Oberoi, Member(JO.

In this O.A., filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant who is serving as Stenographer Grade-I in the Town and Country Planning organisation (Respondent No.2), has prayed for the following reliefs:-

(i) that a mandamus be issued to the respondents directing them to fill up the post of Administrative Officer in the Town and Country Planning Organisation by the method of promotion only, and after considering the candidature of the applicant, who is the only candidate available for promotion, to appoint him as such w.e.f. 1.8.1991;

(ii) that any other or further order/direction which is deemed proper in the facts and circumstances of the case, may also be issued.

2. The applicant's case briefly is that he joined the

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office of the Town and Country Planning Organisation as Lower Division Clerk in 1957, and that in course of time, he was promoted as Junior Stenographer in 1959, followed by appointment as Sr. Stenographer in 1962. His case further is that he was appointed as Sr. Personal Assistant (Stenographer Grade-I) in the scale of Rs.16402900/-, in 1986 on which he is working till date. The post of Administrative Officer in the said organisation, which was hitherto being manned by Sh. J.N. Khanna, fell vacant on 1.8.1991, and he having possessed all the requisite qualifications for the said post, which also fell in the line of promotion for the post of Sr. Personal Asstt., which he was holding, deserved to be promoted as Administrative Officer in the said organisation. By referring to the Recruitment Rules which came into force w.e.f. 9.8.1988, the applicant pleaded that the aim of bringing in such rules was to provide impetus to the eligible candidates serving in the said organisation, to be appointed as Administrative Officer, but Respondent No.2, with a view to bring in some one else, on deputation, from the Ministry concerned, was not in the mood to appoint the applicant on the said post. The applicant asserted that he conforms to all the requisite qualifications, both educationally and also otherwise, and, therefore, since the post of Administrative Officer is to be filled up 100% by promotion, there was no reason why the applicant, who is the only eligible candidate, should not be given the said post. The applicant further stated

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that in order to equip himself with sufficient administrative experience, he had requested the respondents to attach him with Sh. Khanna, both in the interest of the organisation as well as the applicant, but this was declined, with the avowed purpose of bringing some other person, in whom Respondent No.2 is interested.

3. The respondents have contested the applicant's claim, by filing their counter, in which they have stated that the post in question was meant for the reserve category, but as no suitable hand was available, it was got dereserved well in time, and, accordingly, candidature of the applicant, for the said post was duly considered, keeping Recruitment Rules in view, and also the qualifications and experience which the applicant possessed, but the D.P.C. held on 21st June, 1991, did not find the applicant as sufficiently well-up, to be appointed as the Administrative Officer in the office of Respondent No.2. It was contended on behalf of the respondents that no one has the right to be appointed on a particular post, and all that one can ask for is, due consideration of ~~one's~~ case, in accordance with the Recruitment Rules, on the subject. The allegations regarding the Chairman of the Town & Country Planning Organisation being interested in any particular person from the Ministry, to be appointed, by resorting to the second method of appointment, on deputation, as per Recruitment Rules, were vehemently denied. It was also pointed out that the very fact that the applicant himself had asked for, to be associated in the working of the

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Administrative Officer, much earlier than the due date, goes to show his suffering from the inferiority complex of not possessing the requisite experience. It was also stated that the applicant was merely holding the post of Stenographer Grade-I and that he did not have the requisite experience of 5 years working as Stenographer Grade-I, as per the Recruitment Rules, on the relevant date. By referring to the Recruitment Rules for the post, it was also contended on behalf of the respondents that the appointment to the post of Administrative Officer is by selection (Column 5 appendix A-I), and, therefore, the D.P.C. was within its powers to look into the suitability of the applicant, for the post in question. It was further contended that had rules for filling up the post been by seniority-cum-fitness, the plea put forth by the applicant, being the only aspirant for the post, would have been tenable, but, the same being a selection post, the applicant cannot lay a claim to the same, as a matter of right, being the only person entitled to the same.

4. In the rejoinder filed on behalf of the applicant, applicant's claim, as made out in the O.A. was reasserted, stating that the post of Administrative Officer, as per Recruitment Rules, is required to be filled 100% by promotion, failing which by deputation, or fresh recruitment, and nothing adverse during the entire service career of the applicant having been conveyed to him, there was no justification for not appointing him on the said post.

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5. We have given our careful consideration to the facts and circumstances of the case and also the rival contentions, as briefly discussed above. We had also called for the D.P.C. proceedings, and the same have been carefully perused by us. As has been submitted on behalf of the respondents, the post was got dereserved, well in time, and the applicant's case was duly considered in the DPC held on 21.6.1991. The prerogative of the D.P.C. to assess and adjudge the suitability of a candidate is well defined by the rules on the subject, and no one can claim the right to be appointed on a particular post. Viewed in this context, we find no force in the applicant's case, for laying a claim to the post of Administrative Officer in the office of Respondent No.2, over and above the assessment of the D.P.C., regarding his suitability or otherwise, for the said post. In result, we find no occasion to interfere in the matter, and therefore, dismiss the O.A., with no order as to costs. The stay granted on 31.7.1991 and extended from time to time, shall stand vacated, forthwith.

Oberoi 14.2.92
(T.S. OBEROI)
MEMBER(J)

D.K. Chakravorty 14/2/1992
(D.K. CHAKRAVORTY)
MEMBER(A)

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14.02.92