

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No. 1972/91.

Date of decision 29.10.92.

Shri Mubarak Hussain & Ors. ... Applicant

V/s

Union of India & Ors. ... Respondents

CORAM:

Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (A)

Hon'ble Mr. I.P. Gupta, Member (A)

For the Applicant ... Shri H.C. Kapoor,
counsel.

For the Respondents ... Shri P.H. Ramchandani,
counsel.

(1) Whether Reporters of local papers may be
allowed to see the Judgement ?

(2) To be referred to the Reporter or not ?

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[Delivered by Hon'ble Mr. I.P. Gupta, Member (A)]

In this application filed under Section 19
of the Administrative Act, 1985 the applicant has
prayed for issue of directions to the respondents
to promote the applicant, who is a Senior Tennis
Attendant, House-hold establishment, President
Secretariat, to the post of Tennis Marker in the
grade of Rs. 825-1200 and to set aside the impugned

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order promoting another person, Shri Gauri Shanker, as Tennis Marker. The applicant has further stated that the respondents should be directed not to take into consideration the qualification of matriculation fixed for the post of Tennis Marker.

2. The Learned Counsel for the applicant drew attention of the Bench to Annexure II wherein, by an Office Order dated 14th July, 1977, it was stated that on successful completion of probationary period, the applicant, along with others, would continue to officiate as Tennis Attendant from 24th June, 1977. The applicant was at S.No. 1 in the said Office Order. Consequent on restructuring of the House-hold Establishment as notified by order dated 19th February, 1977 the applicant, along with others, was promoted as Senior Tennis Attendant in the scale of Rs 800-1150 from 10th December, 1986. The applicant was at S.No.1 in the Office Order dated 18th November, 1987. Therefore, the plea of the Learned Counsel for the applicant was that the applicant being senior-most as Senior Tennis Attendant, which was a feeder post for the post of Tennis Marker, should have been promoted and the promotion of his junior, Shri Gauri Shanker, should be quashed.

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3. The Learned Counsel for the respondents contended that according to the guidelines and instructions of the President Secretariat issued on 23rd August, 1988, the post of Tennis Marker was to be filled by promotion from Senior Tennis Attendant, possessing requisite qualifications and five years satisfactory service. The requisite qualification by memorandum dated 23rd August, 1988 has been shown as matriculation. The memorandum of 23rd August, 1988, which was produced by the counsel for the respondents before the Bench, showed that the President Secretariat, in order to ensure greater efficiency in performance, issued guidelines for various posts indicating the qualifications and experience for recruitment of staff, procedure for selection and the job description of various categories of personnel. These guidelines superseded earlier instructions. The post of Tennis Marker fell vacant after the issue of the guidelines in the said O.M. of 23rd August, 1988. Since the applicant did not possess the matriculation qualification, he was not promoted and respondent No. 4 was promoted. The guidelines also had prescribed five years satisfactory service as Senior Tennis Attendant but neither the

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applicant nor respondent No. 4 had this experience which was relaxed by the respondents.

4. Subsequently, the guidelines/instructions of the President Secretariat dated 23rd August, 1988 were partially modified by an order dated 24th June, 1991. The said letter reads as follows :-

" In continuation of this Secretariat O.M.No.13/Estt/6 (Pt.X) dated the 25th August, 1988, forwarding therewith the guidelines regarding qualifications, etc. for different categories of staff in the Household Establishment, it has been decided to treat 23.8.1988 as a cut-off date. The promotion of staff who have been in service prior to this date would be considered on seniority-cum-fitness. For fresh appointments after that date, the new qualifications will be strictly adhered to.


This issues with the approval of the Secretary to the President. "

5. The promotion of respondent No. 4 was done in accordance with the guidelines prevailing at the time

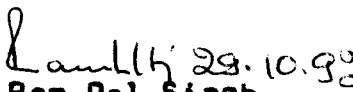
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of promotion. In the absence of any statutory recruitment rules, the guidelines or the instructions prevalent at the time of promotion were governing the promotion. By letter dated 24th June 1991 it was decided by the President Secretariat that for employees who have been in service prior to 23.8.1988 the guidelines regarding qualification would not be relevant and the staff would be considered on seniority-cum-fitness. Obviously, these instructions, which modified the earlier instruction of 23.8.1988, will govern promotions taking place from 24th June, 1991 onwards. The promotion made prior to 24th June 1991 according to the earlier (then prevailing) guidelines cannot be said to be illegal or arbitrary.

6. In the above view of the matter, the application is bereft of merit and ^{is} dismissed with no order as to costs.


I.P. Gupta
Member (A)

29/10/92


Ram Pal Singh
Vice-Chairman (J)