

CENTRAL ADMINISTRATIVE TRIBUNAL  
Principal Bench

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O.A. No. 2669 of 1991

New Delhi, dated this the 3<sup>rd</sup> September 1997

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Kulwant Singh,  
S/o Shri Karnail Singh,  
R/o F-27-A, Gali No.4,  
Santgarh Extn.,  
Major Bhupinder Singh Nagar,  
New Delhi-110018.

... APPLICANT

By Advocate: Shri K.L. Bhandula

VERSUS

1. The Secretary,  
Union Public Service Commission,  
Dholpur House,  
Shahjahan Road,  
New Delhi-110011.

2. The Secretary,  
Ministry of Personnel, P.G&P,  
Dept. of Personnel & Training,  
New Delhi.

... RESPONDENTS

By Advocate: Shri P.H. Ramchandani

J U D G M E N T

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns Respondents' letter dated 23-8.91 (Ann. A-1) rejecting his appeal against his non-recommendation of appointment to the post of Section Officer.

2. Respondent No.1 conducted S.Os/ Stenographers Grade 'B'/Gr.I Limited Departmental Competitive Exam., 1989. Six candidates including the applicant secured equal aggregate marks i.e. 394 marks. In accordance with Examination Rules, candidates

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were arranged in the order of merit as disclosed by the aggregate marks. R-1 have laid down certain principles for resolving ties amongst candidates securing equal aggregate marks, a copy of which is taken on record. These principles provide inter alia that where candidates secured equal aggregate marks, those getting more marks in the written ~~marks~~<sup>papers</sup> are placed higher. On seeing the details of the marks obtained by the six candidates who secured equal aggregate marks, we note that applicant was 5th in the order of merit as per written marks, and as the last person to be selected was 4th in the order of merit as per written marks secured, Applicant could not be recommended for appointment. On perusal of the principles evolved by R-1, a copy of which is taken on record, satisfies us that the same are entirely reasonable, non-arbitrary and non-discriminatory and do not call<sup>^</sup> for any interference.

3. Applicant has also contended that R-2 in their letter dated 7.3.91 addressed to R-1 had called for four additional names from the L.D.C.E., 1989 candidates and <sup>had</sup> applicant's name ~~had~~<sup>?</sup> been recommended by R-1, in reply to that letter, he would have been appointed as an S.O. as per 1989 Exam. itself. He has emphasised that this letter dated 7.3.91 was issued by R-2 barely 3-4 days after the last

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person from the 1989 list had joined duty and alleged that R-1 deliberately and malafidely did not recommend his name in response to letter dated 7.3.91 from R-2.

4. In this connection Respondents' counsel Shri P.H. Ramchandani has handed over to us during hearing, across the bar, a copy of R-1's reply to letter dated 7.3.91 in which it has been pointed out that the final results of the 1989 LDCE had<sup>n</sup> already been declared on 10.12.90 and the Home Ministry's O.M. dated 14.7.67 itself ~~lays~~<sup>laid</sup> down that once the results were published, additional persons should not normally be taken till <sup>the</sup> next examination, and therefore it ~~was~~<sup>n</sup> regretted that it was not possible to recommend four more candidates for inclusion in the Select List based on the 1989 Exam. It was further pointed out in their reply dated 12.4.91 <sup>that</sup> since the 1990 Exam. had also been held in December, 1990, R-2 could consider ~~the~~ desirability of including these vacancies in their requirement in respect of 1990 Exam. A copy of the aforesaid letter dated 12.4.91 together with Home Ministry's O.M. dated 14.7.67 is taken on record.

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5. In the light of the above, we have no hesitation in holding that there was no illegality or infirmity in R-1 not recommending the applicant's candidature as S.O. pursuant to letter dated 7.3.91 from R-2.

6. Under the circumstances, the O.A. warrants no interference and it is dismissed. No costs.

*A. Vedavalli*

(DR. A. VEDAVALLI)  
Member (J)

/GK/

*S.R. Adige*

(S.R. ADIGE)  
VICE CHAIRMAN (A)