

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI

O.A.No.2804/91.along
with MP-3825/91,335/92
and 336/92.
S.P.Wadhwa

Date of decision: 18-2-92
...Applicant

Versus

Union of India and Ors. ...Respondents

CORAM:

THE HON'BLE MR. JUSTICE RAM PAL SINGH, VICE-CHAIRMAN.
THE HON'BLE MR. I.P. GUPTA, MEMBER (A).

Counsel:

Shri Jagjit Singh	...Counsel for the applicant.
Shri R.S.Aggarwal	...Counsel for the respondents.
Shri M.L. Ohri	...Counsel for the petitioner in MP No.3825/91.
Shri S.S.Bhalla	...Counsel for the petitioner in MPs.335 and 336 of 1992.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGMENT

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

In this application, filed under Section
19 of the Administrative Tribunals Act, 1985, the
applicant is an Inspector (Audit) in the Income Tax
Department in the Delhi Charge. He was confirmed
in the said grade on 30-9-78.

(A)

2. Rule 3 of the Manual of Office Procedure issued by the Directorate of Inspection prescribes for the Departmental Promotion Committee. Rule 3.1(2) provides that each Ministry/Department has to set up DPC which should meet at regular intervals for processing cases for promotion. This Rule specifies that the procedure for selection by DPCs must be impartial and uniform. The Departmental Promotion Committee sits annually to consider all such Inspectors who have qualified in the departmental examination for promotion.

2. A chart indicating the dates of Departmental Examination, ~~dates~~, ^{date} of declaration of results, the dates of DPCs is given below :-

1	Date of examination.	Date of Declaration of Result.	Date of DPC held for promotion to ITO (Group-B)
1.	4-6-79 to 11-6-80	10-12-79	-
2.	2-6-80 to 7-6-80	20-11-80	10-12-80
3.	8-6-81 to 15-6-81	9-11-81	April'82
4.	22-7-82 to 29-7-82	22-1-83	27-5-83
5.	17-6-83 to 24-6-83	6-2-84	31-3-84
6.	15-6-84 to 23-6-84	28-11-84	26-12-84
7.	24-6-85 to 1-7-85	17-11-85	--
8.	26-6-86 to 1-7-86		

DPC stayed in OA 684/86 and later held after declaration of result as per orders of Tribunal

(15)

9. 19-6-87 to 26-7-87	27-1-88	April 1988
10. 23-6-88 to 30-6-88	17-1-89	March/April 1989
11. 21-7-89 to 28-1-89	2-2-90	April/August 1990
12. 18-7-90 to 27-7-90	8-2-91	Nov./Dec., 1991
13. 17-7-91 to 25-7-91	13-1-90	-

3. The chart given in para 2 clearly shows that from 1988 onwards and even earlier DPC is held after the publication of result. The departmental examination /generally has been held /once in a year every year. The Respondents contend that the panel is drawn up by DPC taking into account existing vacancies and the future vacancies occurring during the course of the year. There is no irregularity in holding of DPC in 1991 after the declaration of result of July 90 in Feb. 91. This DPC was held in /December November /91. The next DPC can take place in 1992 only, more so when the results of July 91 have been published in January 92. The applicant contends that vacancies of 1991-92 should have been filled by the DPC which may take place in 1992.

4. The a-pplicant contends that DPCs are held after the results of the departmental examination. This is evident from the chart also given above.

5. The names of those incumbents who qualify in the examination in a particular year are arranged as per their respective seniority based on the length of service irrespective of year of passing and they enter the zone for selection in the panel.

6. The applicant contends that the panel of selected Inspectors is drawn up by the DPC on the basis of existing vacancies of ITOs (Gr.B) as well as the vacancies likely to arise in the next one year.

7. According to Rule 3.9 of Chapter 5 of the manual the panel drawn up by the DPC would normally be valid for one year. In any case it should cease to be in force on the expiry of one year and 6 months or when a fresh panel is prepared whichever is earlier, The date of commencement of the validity of the panel will be the date on which DPC meets.

8. The relief sought is that the DPC for 1991 be postponed and held after the declaration of results of departmental examination held in July 1991 and if any DPC is held the recommendations be kept in a sealed cover to be opened after the declaration of the result. The holding of DPC was stayed by interim order dated 26-11-1991. The interim order was later modified by order dated 20-12-91. The modified interim order reads as follows:-

"The respondents are allowed to hold the D.P.C originally scheduled for 28-11-91 for selection of I.T.O., Group 'B' for the year 1991. The appointments made on the basis of the D.P.C. 1991, however, shall be subject to the outcome of this O.A."

9. On analysing all the facts and the pleadings in the case, we find that there was no irregularity in holding the D.P.C in November/December, 91. The chart

17

depicted in para 2 above would show that ^{/almost}every year a DPC is to be held. In 1989, it was, however, held twice and in 1986 and 1987, they were not held presumably because of some stay order passed and ^{/be} other considerations which would not ^{/be} relevant here.

10. In the circumstances, the proceedings of the DPC of November/December, 91 cannot be quashed on the ground that it should have been held after the results of examination of July, 91 were published. The chart depicts that the results are announced generally in the year following the year of exam.

11. The point that now arises is in regard to the vacancies that should be taken into consideration by the DPC in its sitting. The learned counsel for the respondents brought out that the result for the examination held in July, 1989 was declared in April, 1990 and the DPC covering the eligible Inspectors for promotion to the grade of Income Tax Officers Group 'B' was held in May, 1990. The DPC was held on the basis of number of existing vacancies and the vacancies which may arise within a period of one year ending on 31st March. Further, it is observed from the judgment ^{/dated 29-10-90} passed in O.A.No.599/88 (M.C.GAUTAM & ORS. VS.UOI&ORS) ^{/that} a direction was given that

"respondents should convene a Review DPC to consider empanelment for 27 posts for the year 1988-89 based on the 1987 seniority list.". The learned counsel for the respondents contended that 1987 seniority-list officials who had passed meant that the departmental examination held in 1987, were to be considered for promotion along with those who had passed earlier but were not selected. Therefore, officials who passed the departmentalexam, held in July, 1991, would be considered for the year 1992-93. This contention of the respondents is further supported by the statement that the DPC is to consider the existing vacancies and the vacancies that fall in the course of the year (financial year). Therefore, a DPC, that is held in 1992, should take into account the vacancies in 1992-93 upto the date of holding of the DPC and the vacancies that fall during the remaining portion of the financial year 1992-93. The learned counsel for the respondents pointed out that the panel that was prepared by the DPC in November/December, 91 has already been exhausted. Therefore, the entire range of vacancies of 1992-93 would be available for the candidates that may be placed in the panel by the DPC to be held in 1992.

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(19)

12. In the facts and circumstances of this case, we hold that the relief sought by the applicant has no merit. However, we direct that the DPC should meet preferably in April, 1992 and the vacancies falling within 1992-93 should be taken into reckoning while drawing up the panel which should be valid at least for a period of one year. The promotions already made on the basis of the recommendations of the DPC held in November/December, 91 are not to be affected.

With the above direction, the application is disposed of with no order as to costs.

PKK.

I.P. Gupta
(I.P. GUPTA) 18/2/92
MEMBER (A)

Ram Pal Singh
(RAM PAL SINGH) 18.2.92
VICE-CHAIRMAN.