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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.2523/2004

This the 17th day of March, 2005.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Dr. D.V.Rao,
Superintendent Legal,
Department of Legal Affairs,
Ministry of Law & Justice,
Government of India,
Shastri Bhawan, New Delhi.

... Applicant

(None present)

versus

1. Union of India through
Secretary, Department of Legal Affairs,
Ministry of Law & Justice,
Government of India,
Shastri Bhawan, New Delhi.
2. Joint Secretary & CEO,
National Trust,
Ministry of Social Justice & Empowerment,
Government of India,
4 Vishnu Digamber Marg,
New Delhi-110002.

(By Shri Ashish Nischal for Shri Rajinder Nischal, Advocate)

ORDER (ORAL)

Hon'ble Shri V.K.Majotra, Vice-Chairman (A) :

Applicant is aggrieved that his application for deputation on the post of Deputy director and Assistant Legal Adviser in the National Trust, Ministry of Social Justice & Empowerment in response to advertisement-dated 21.8.2004 was not forwarded.



2. Applicant has been working as Superintendent Legal since 30.10.1998 on selection through UPSC.

3. As none appeared on behalf of applicant despite revised call, we proceeded to adjudicate in the matter in terms of rule 15 of the C.A.T. (Procedure) Rules, 1987 by hearing the learned counsel of respondents and perusing the record.

4. It has been stated on behalf of applicant that respondents have acted arbitrarily in violation of D.P. & A.R. OM No.42015/3/77-Estt.(C) dated 25.2.1978 (Annexure A-3) relating to forwarding of applications for other employment and not forwarded his application though he has been holding a permanent post in the Government. The aforesaid OM envisages that except where public interest otherwise demands, the administrative authority should ordinarily forward applications submitted either in response to advertisements issued by the UPSC or applications which are submitted by temporary government servants for permanent posts.

5. In the present case, the learned counsel of respondents stated that applicant's application was not forwarded in public interest due to shortage of staff, in compliance of policy decision taken by the cadre controlling authority in January, 2004. He stated that Department of Legal Affairs is a small department and its primary functions are to tender legal advice to various departments/ministries and to monitor/conduct government litigation. He further stated that keeping in view the fact that the department is a small department and restrictions have been imposed on its expansion, in public interest it has been decided not to depute any officers on the advice side of the department for any post outside the department. Even those officers who are already on deputation are being recalled/declined approval for extension to help ease the situation in the department. He pointed out that earlier on applicant had been permitted to appear in an interview

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on 12.8.2004 in response to a requisition for the post of Lecturer/Professor in the field of law of Ministry of Education of Ethiopia to the Ethiopian Embassy. The learned counsel of respondents stated that respondents have not in any manner acted arbitrarily in violation of the instructions of the DOP&T.

6. Respondents have explained the circumstances why applicant's application was not forwarded in response to the advertisement dated 21.8.2004 for deputation to National Trust. Considering the explanation put forward by respondents, we are convinced that respondents have not acted arbitrarily in declining the request of applicant. The contentions made on behalf of respondents have not been denied by way of any rejoinder on behalf of applicant.

7. In result, the OA is dismissed being devoid of merit. No costs.

S. Raju
(Shanker Raju)
Member (J)

V. K. Majotra
(V. K. Majotra)
Vice-Chairman (A) 17-3-05

/as/