

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA NO. 1333/2004

New Delhi, this the 5th day of July, 2005

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)
HON'BLE MR. S.K. MALHOTRA, MEMBER (A)

Munni Lal,
S/o Late Shri Pukhan,
R/o Type III/8, NCERT,
Campus,
New Delhi-110016.

.... Applicant.

(None present)

Versus

National Council of Education Research
and Training Centre (NCERT),
Aurbindo Marg,
New Delhi-110016 through its Director ... Respondent.

(By Advocate Ms. Deepa Rai proxy for Shri R.K. Singh)

ORDER (ORAL)

Hon'ble Mrs. Meera Chhibber, Member (J).

By this O.A., applicant has sought quashing of the order dated 25.4.2003 whereby Shri R.N. Bhardwaj had been appointed as Assistant Editor in Publication Department, NCERT Headquarters (page 11) and has further sought a direction to promote him to the post of Assistant Editor w.e.f. 25.4.2003.

2. It is submitted by the applicant that he was appointed as Proof Reader vide order dated 11.7.1984 and as Editorial Assistant on 28.11.1988. He had been doing this work honestly and diligently without any complaint. Applicant was a senior most Editorial Assistant as per the seniority list dated 15.11.1999. Therefore, he was eligible for promotion to the post of Assistant Editor but ignoring him, Shri R.N. Bhardwaj has been promoted to the post of Assistant Editor vide order dated 25.4.2003 which is absolutely wrong and illegal.

3. Being aggrieved, applicant gave representation on 1.5.2003 requesting the authorities to review the orders but no reply has been given. However, reply was sent to the legal notice, that too is absolutely contrary to the factual position.



4. Applicant has submitted that he belongs to SC category but no relaxation was given to him and respondents also ignored the roster point for SC/ST candidates. He has submitted that there are 9 Assistant Editors in the Publication Department but there is no SC/ST Assistant Editor against the reserved post. Therefore, respondents are acting in an absolutely illegal manner. He is, therefore, entitled for the relief, as prayed by him.

5. Respondents have opposed this O.A. They have submitted that the policy with regard to the reservation for promotion is duly followed and incumbents are promoted in accordance with the recruitment rules for the posts. They have explained that until 1995, there were no language-wise posts in the category of Editor and Assistant Editor. However, the posts of Editor and Assistant Editor were bifurcated language-wise, such as English, Hindi, Urdu in 1995, in the Editorial Wing of Publication Department. There are 10 sanctioned posts of Assistant Editor which are language-wise bifurcated, such as 5 in English, 4 in Hindi and 1 in Urdu and the SC/ST and OBC category candidates are already holding the post. Now as per the post based roster, the post of Assistant Editor in English fell under unreserved category and among the Editorial Assistants in English Shri R.N. Bhardwaj was promoted on the recommendations of the DPC wherein applicant was also considered. Therefore, he cannot have any grievance. In any case, the post of Editor is a selection post and the guiding principle is seniority-cum-merit. Therefore, applicant cannot claim promotion on the basis of seniority alone. They have further explained that prior to holding the DPC, clearance of SC/ST Cell of the office had already been obtained and the same was brought to the notice of DPC as without clearance of SC/ST Cell, DPC/Selection Committee is not convened. They have stated categorically that ever since his appointment as Proof Reader, applicant had been working only in Hindi language and he was never assigned any work pertaining to English language. Reply to this effect has already been communicated to the applicant vide orders dated 15.7.2003 and 27.10.2003. They have thus prayed that the O.A. may be dismissed. Counsel for respondents has also relied on the judgment dated 13.4.2004 given in O.A. 2485/2003 wherein applicant had claimed

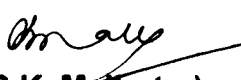


promotion against the ST category but after hearing the respondents the said O.A. was also dismissed.

6. Since none had appeared for the applicant, we are deciding this case by attracting Rule 15 (1) of the CAT (Procedure) Rules, 1987. We have heard counsel for the respondent and perused the pleadings as well. The whole claim of applicant is that he was senior most and since he belongs to SC category, he ought to have been given relaxation and promotion on that basis. However, from the reply filed by the respondents, it is seen that after the posts were bifurcated in 1995, they have given one post each to SC/ST and OBC candidate, which is reflected from the table shown on page 31 of the paper book. From 2nd July, 1997, Government is following post based roster, according to which this post fell as unreserved category. Therefore, it is wrong on the part of the applicant to claim promotion on the basis of being a SC candidate. Even otherwise, applicant was also considered by the DPC held on 17.4.2003 but since this is a selection post, seniority alone cannot be the criteria for giving promotion. Apart from this, it is seen that no mala fides have been alleged against the members of Selection Committee. Therefore, the selection made by the members of Selection Committee cannot be doubted. After all, a person only has a right of consideration and nobody can claim promotion as a matter of right. Since recommendations have been made by the duly constituted DPC to promote Shri R.N. Bhardwaj, we cannot sit in appeal over the recommendations made by the Selection Committee.

7. Apart from this, it is also seen that though applicant has challenged the appointment of Shri R.N. Bhardwaj to the post of Assistant Editor but Shri R.N. Bhardwaj has not been impleaded as a party. Law is well settled that no adverse orders can be passed at the back of an individual. Therefore, this O.A. is bad for non-joinder of necessary party as well and it must fail on this ground.

8. In view of the above discussion, we find no merit in the O.A. It is accordingly dismissed. No order as to costs.


(S.K. Malhotra)
Member (A)


(Mrs. Meera Chhibber)
Member (J)