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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA NO. 1431/2004

New Delhi, this the 11th day of January, 2005

**HON'BLE MR. JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE MR. S. A. SINGH, MEMBER (A)**

Balwan Singh s/o Late Sh. Megha Ram,
R/O T-563/F, Gali No. 2,
Vijay Marg, Baljeet Nagar,
New Delhi.

...Applicant

(By Advocate: Shri Amit Srivastava proxy for Sh. U. Srivastava)

-versus-

Govt. of N.C.T. of Delhi through

1. The Chief Secretary,
Govt. of N.C.T. Delhi,
Delhi Secretariat,
I.P. Estate, New Delhi.
2. The Principal Secretary (Home),
Govt. of N.C.T. Delhi,
Delhi Secretariat,
I.P. Estate, New Delhi.
3. The Director General of Home Guard & Civil Defence,
Nishkam Sewa Bhawan,
Raja Garden, New Delhi - 27.
4. The Commandant Home Guards,
O/o the D.G. Home Guard & Civil Defence,
Nishkam Sewa Bhawan,
Raja Garden, New Delhi - 27.
5. The U.P.S.C. through
Its Chairman,
Dholpur House,
Sahajan Road,
New Delhi.

...Respondents

(By Advocate: Shri Ram Kanwar)

ORDER (ORAL)

Justice V. S. Aggarwal:

The applicant (Balwan Singh) was appointed as Field Clerk on 27.08.1968. Thereafter in December, 1971, he was appointed as Instructor Civil Defence as a direct recruit. He earned his next promotion as Senior Instructor (HG) on 20.06.1983 and further as Junior Staff Officer in officiating capacity on 5.11.1997. He was appointed as Junior Staff Officer on regular basis on 11.2.1999.

2. By virtue of the present application, he seeks that the action of the respondents, by which they have published the advertisement in the newspaper dated 13.3.2004 for filling two posts - one of Senior Staff Officer and one of Commandant, Central Training Institute, is illegal. The applicant should be considered by promotion failing which by transfer on deputation because, according to him, the Union Public Service Commission is competent to relax the rigours of the rules and the matter has not been referred to the Union Public Service Commission as to if it would like to relax the qualifications prescribed.

3. The Original Application has been contested.

4. During the course of submissions, our attention has been drawn towards column 8 pertaining to recruitment rules of Senior Staff Officer Civil Defence/Commandant, Principal Central Training Institute. The same reads:

“ESSENTIAL :-

(A) (i) B.E. (fire) from a recognized University or equivalent;

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- (ii) Five years experience in Civil Defence/Fire fighting/training in a Police/Military or para-military/Fire service organization; or
- (B) (i) Degree from a recognized University or equivalent;
- (ii) 8 years experience in Civil Defence/Fire fighting training in a police/Military or para- military/Fire service organization.

Note:1 Qualifications are relaxable at the discretion of the UPSC in case candidates otherwise well-qualified.

Note:2. The qualification(s) regarding experience is/are relaxable at the discretion of the UPSC in the case of candidates belonging to Scheduled Castes and Scheduled Tribes if, at any stage of selection, the UPSC is of the opinion that sufficient number of candidates from these communities possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them."

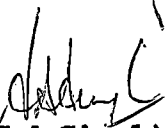
It clearly shows that qualifications could be relaxed at the discretion of the Union Public Service Commission in case of candidates, who are otherwise well qualified.

5. It is not in dispute that the claim of the applicant has never been referred to the Union Public Service Commission in terms of the said rules for relaxation. The respondents simply plead that matter was referred to the Union Public Service Commission for comments only. Once the rules permit that relaxation pertaining to qualifications could be done at the discretion of the Union Public Service commission in case the candidate is well qualified, it would be in the fitness of things that the strict provisions of the rules are adhered to.


6. Accordingly, without dwelling into any other controversy, we direct that respondents should, in accordance with the recruitment

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and following the procedure.
rules, make a reference to the Union Public Service Commission,
as referred to above, and thereafter an appropriate decision may be
taken. We make it clear that nothing said herein should be taken
as an expression of opinion on the merits of the case.


(S.A. Singh)
Member (A)

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(V.S. Aggarwal)
Chairman