

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1748/2004

New Delhi, this the 10th day of December, 2004

Hon'ble Mr. Shanker Raju, Member (J)
Hon'ble Mr. S. K. Malhotra, Member (A)

Shri Avinash Mishra,
S/o Shri M.D. Mishra,
Aged about 40 years,
R/o D-107, Pragati Vihar,
Lodhi Road, New Delhi.

...Applicant.

(By Advocate Shri A.K. Behra)

Versus

1. Union of India,
Through the Secretary,
Planning Commission,
Yojana Bhawan, New Delhi – 110 001.

2. The Secretary,
Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi – 110 011.

...Respondents.

(By Advocate Shri R.N. Singh)

ORDER (ORAL)

Heard the learned counsel. OA 1116/2001 was disposed of by this Tribunal on 3.4.2002 observing that the period rendered by the applicant on adhoc basis shall be counted as eligibility for promotion to the post Deputy Advisor in Planning Commission. As the respondents had not complied with the orders, applicant has filed CP 222/2002 which was dismissed on the ground that after opening of the sealed cover the applicant was not found fit and was not selected, was placed in the panel and Shri K.C. Idiculla has been appointed to the post of Deputy Advisor (Irrigation). Learned counsel for the applicant, Shri A.K. Behra, has contended that as Shri K.C. Idiculla having refused the


promotion, waiting list/ panel should be operated and as the applicant is at sr.no.1 is to be promoted as he is found fit in the DPC.

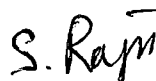
2. On the other hand, respondents filed a short reply contending that now they have decided to challenge the order passed by the Tribunal in OA 1116/2002. Notices have been issued on both i.e. CWP and Interim Relief and the matter is fixed for 28.1.2005.

3. We have carefully considered the rival contentions and perused the matter on record. Unless the decision of the Tribunal is modified by the High Court, it is effective and can be complied with. Moreover the applicant has a right to be considered in the light of his being empanelled and the appointed person having refused the promotion.

4. The respondents can redress the grievance of the applicant subject to the final outcome of the writ petition with the stipulation that in the event a contrary view is taken by the High Court he will have to refund the difference of wages and would not have any right to promotion.

5. In this view of the matter the OA is disposed of with the directions to the respondents to consider the applicant for promotion as Deputy Advisor (Irrigation) with an undertaking in accordance with law within two months from the date of receipt of a copy of this order.


(S.K. Malhotra)
Member (A)


(Shanker Raju)
Member (J)

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