

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA 1795/1992

Date of decision:09.02.1993.

Shri Mohd. Ayub

...Applicant

Versus

Union of India & Others

...Respondents

For the Applicant

...Shri E.X. Joseph,
Counsel

For the Respondents

...Shri P.H.
Ramchandani, Sr.
counsel with Shri J.
C. Madan, Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble Shri P.K. Kartha,
Vice Chairman(J))

We have gone through the records of the case and have heard the learned counsel of both parties. The reliefs sought by the applicant in the present application are the following:-

- (i) Grant of orders striking down, quashing and setting aside any decision to appoint an Assistant, UDC or LDC from the Secretariat Staff (Ministerial Staff) to the post of Caretaker.
- (ii) Grant of orders directing the respondents to consider the *α*

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applicant, who is working as Assistant Caretaker and who has been discharging the duties of the post of Caretaker ever since creation for appointment to the post Caretaker.

(iii) Grant of orders directing the respondents to place before this Hon'ble Tribunal all the files and records in respect of creation of the post of Caretaker, deliberations in regard to the filling up of the post, the notings and recommendations made by the then Comptroller, President's Household and also the ACR file of the applicant during the period when he has been discharging the duties of Caretaker as well as the duties of Assistant Caretaker.

(iv) Grant any other order which this Hon'ble Tribunal deems appropriate and necessary in the circumstances of the case.

(v) Grant of cost of this application to the applicant.

2. On 14.07.1992 the Tribunal passed an interim order directing that if the respondents intend to fill up the post of Caretaker, the applicant's suitability should also be considered along with other candidates. The interim order has been continued thereafter till the case was finally heard on 28.01.1993.

3. The President's Secretariat has three different establishments, namely, the Secretariat proper consisting of the Ministerial Staff, the Household Establishment and the Garden Establishment. There are several posts under the President's Household Establishment such as that of Cooks, Baker, Cookmate, Bakermate, Butler and

Masalchi. The applicant had been holding the post of Senior Household Attendant from 17.01.1986. He was promoted to the post of Head Household Attendant with effect from 01.11.1990. The applicant is a Graduate. He has stated that in the entire Household Establishment, he is the seniormost Graduate.

4. According to the version of the applicant eventhough the post held by him was that of Head Household Attendant, he was asked to look after the duties of Personal Assistant to the Comptroller of the President's Household from 1988 onwards upto 1991. The respondents version is that no formal orders had been issued in this regard.

5. According to the applicant he continued to discharge all the duties of Caretaker which was created by order dated 1.9.1989. He has averred that he continued to discharge all the duties of Caretaker. The respondents have stated that no formal orders had been issued in this regard.

6. The grievance of the applicant is that though he fulfils the qualifications for appointment as Caretaker, the respondents have not taken steps to do so. The respondents have stated that the post of Caretaker is not the promotion post and it is an isolated ex-cadre post. The applicant, therefore, does not have a claim for appointment to the said post merely because it is created in the Household Establishment.

7. The applicant has produced certificates issued by the officers of the President's Secretariat in which his services have

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been stated to be praise worthy. The learned counsel for the respondents stated that the officers concerned had no authority to issue such certificates.

8. The respondents have^a also prescribed the recruitment rules for filling up the post of Caretaker. According to the qualifications and experience prescribed, the person should be a Graduate. Two years experience of handling stores or purchases or accounts in a Catering Establishment or Establishment with similar type of work has been prescribed as a desirable qualification. The method of recruitment is by direct recruitment or deputation or selection from among Storekeepers.

9. The applicant claims that he possesses the requisite qualifications and experience for appointment to the post of Caretaker. Though the post of Caretaker had been created in the President's Secretariat, the respondents have not taken a decision to fill up the same. The Tribunal cannot issue any mandatory direction to the respondents to fill up the said post. It is for the President's Secretariat to decide on policy or administrative considerations as to when the recruitment should be made to the said post.

10. There is nothing on record to indicate that the applicant was entrusted with the duties of Caretaker. No formal orders had been issued by the respondents designating him as Caretaker.

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11. In the facts and circumstances of the case, the applicant is entitled to the relief to the extent that in case the respondents decide to fill up the post of Caretaker, they should also consider the suitability of the applicant for appointment to the said post along with other eligible candidates. We order and direct accordingly. The application is disposed of on the above lines. The interim order already passed is hereby made absolute.

There will be no order as to costs.

B.N. Dhoondiyal
(B.N. DHOUNDIYAL) 9/2/93
MEMBER (A)
09.02.1993

Amrith
9/2/93
(P.K. KARTHA)
VICE CHAIRMAN (J)
09.02.1993

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