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In the Central Administrative Tribunal

Principal Bench: New Delhi

OA No.588/92

Date of decision: 24.12.1992

Shri Bamdeva Prasad Sinha

...Petitioner

Versus

Union of India through the
Secretary, Ministry of
Information & Broadcasting,
New Delhi & Others

...Respondents

Coram:-

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman

The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner

Shri Rajeev Sharma, Counsel.

For the Respondents

Shri J.C. Madan, Counsel.

(Judgement of the Bench delivered by Hon'ble
Mr. I.K. Rasgotra, Member (A))

Aggrieved by the orders of the respondents vide letter No.A 19011/1/82-Admn.I dated 2.12.1991, declining to forward the application of the petitioner for employment in UNICEF he has prayed for the following reliefs:-

- i) To quash the said order of 2.12.1991 and to direct the respondents to forward his application for appointment as Assistant Project Officer (Communication), UNICEF and to quash the OM of Union of India dated 22.3.1978 which gives the guidelines for dealing with such cases.
2. The learned counsel for the petitioner Shri Rajeev Sharma submitted that the petitioner was working as Deputy Director (Song & Drama Division) Chandigarh since July, 1983 while respondent No.2 was junior to the petitioner as Deputy Director.

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3. That the respondent No.2 was appointed to the Post of Director w.e.f. June, 1991, superseding the petitioner. In the meantime, Respondent No.2 had also submitted his application for the post of Communication Development Officer to the then Director which was advertised by the UNICEF in 1989. The application of Respondent No.2 was forwarded to the UNICEF. Respondent No.2 was eventually selected for the said post and was appointed on 8.1.1990. On 1.11.1991 the posts of Project Officer (Communication) in UNICEF were advertised in 'The Hindustan Times' of 1.11.1991. The petitioner applied for the post through proper channel on 13.11.1991. The said application, however, was not forwarded keeping in view the instruction of Government of India in OM No.27/53/77 EDB dated 22.3.1978. The learned counsel for the petitioner, therefore, contended that the yardstick applied to respondent No.2 was different from the norm applied to the petitioner and that the action of the respondents in declining to forward the petitioner's application was illegal, arbitrary and malafide.

4. Shri J.C. Madan, the learned counsel for the respondents referring to his counter-affidavit submitted that the well established position in the Government is that the applications from serving employees in response to advertisement of UN Agencies/International Organisations are to screen by the nodal Ministries. In this connection the learned counsel referred us to the Department of Personnel OM dated 22.3.1978 which is extracted below:-

"Applications from serving employees in response to advertisements of U.N. Agencies/International Organisations not be forwarded.--At present the concerned Administrative Ministries are

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responsible for nominations of experts for United Nations and other posts with which they are concerned. The vacancies are circulated by the nodal Ministries to all concerned (e.g., posts in F.A.O., I.L.O., W.H.O., U.N.I.D.O. by Department of Agriculture, Labour, Health and Industrial Development respectively, etc.) and nominations are finalised by the departmental screening committees. This system ensures fair consideration of the Government employees working in various Ministries, etc. In view of the above, the applications submitted by Government employees in response to advertisements issued by United Nation Agencies or other international organisations in newspapers should not be forwarded."

The learned counsel further submitted that even the application of Respondent No.2 when he was working as Deputy Director for the post of Communication Development Officer in UNICEF was not forwarded by the then Director of Song & Drama Division. He further submitted that Respondent No.2 submitted his resignation from the government post and the same was accepted w.e.f. 10.2.1990. It was only thereafter that he joined of his own as Project Development Officer (Communication) under UNICEF. The case of the petitioner, therefore, is not on all fours with the case of respondent No.2. Once a government servant has submitted his resignation and the same has been accepted, answering respondents are not concerned in the matter.

5. Although the petitioner has challenged the office memorandum dated 22.3.1978 as illegal, arbitrary and discriminatory and prayed for its being struck down, there is no material on record to justify the striking down of the said O.M. The Government in fact appears to have reviewed the procedure for forwarding the

applications of the serving employees and expressed its satisfaction with the system of screening the applications of the applicants for such posts through the screening committees operating in the nodal Ministries. This system is stated to have ensured fair consideration of government servants for such posts.

6. In absence of any material establishing the illegality of the OM dated 22.3.1978 we have no hesitation in accepting the submissions of the respondents with the system now obtaining in the Government, as it is designed to ensure fair and proper consideration of all applicants. There is also no discrimination against the petitioner as the Respondent No.2 had submitted his resignation which had been accepted by the competent authority before he joined the UNICEF.

7. In the above facts and circumstances of the case, the petition fails. The same is accordingly dismissed. No costs.

I.K. Rasgotra
(I.K. RASGOTRA)
MEMBER(A)

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Ram Pal Singh
(RAM PAL SINGH)
VICE-CHAIRMAN

14.12.1992.