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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

23

O.A. No. 805/92
T.A. No.

199

DATE OF DECISION 30-6-97

Shri H.S. Nanda

Petitioner

Shri B.B. Raval

Advocate for the Petitioner(s)

UOI & Ors

Versus

Respondent

None for the respondents

Advocate for the Respondent(s)

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri K. Muthukumar, Member (A)

1. To be referred to the Reporter or not? *✓ Yes*

2. Whether it needs to be circulated to other Benches of the Tribunal? *X*

Booth
(Smt. Lakshmi Swaminathan)

Member (J)

Central Administrative Tribunal
Principal Bench

2X

O.A. 805/92

New Delhi this the 30th day of June, 1997

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Hon'ble Shri K. Muthukumar, Member(A).

H.S. Nanda,
S/o Sardar Jit Singh,
R/o 18/2, D.S. Prem Nagar,
Tilak Nagar, Jail Road,
New Delhi.

...Applicant.

By Advocate Shri B.B. Raval.

Versus

1. Union of India, through
The Secretary,
Ministry of Agriculture,
Govt. of India,
Krishi Bhavan,
New Delhi.
2. The Secretary,
Union Public Service Commission,
Govt. of India,
Shahjahan Road,
New Delhi.

...Respondents.

None for the respondents.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

The applicant is aggrieved that the respondents have not filled the post of Joint Commissioner (Flood Control and Watershed Management) (in short 'JC(FC&WM)') lying vacant since 31.3.1989 for which, according to him, he was eligible to be appointed. He has also submitted that there was another vacancy in the same post which fell vacant in 1990 for which also the respondents had not taken action for filling the same. Hence, this application has been filed by him on 24.3.1992.

2. When the case came up for final hearing, Shri B.B. Raval, learned counsel for the applicant, submitted that as the applicant has retired from service on 31.1.1994 and ^{as} he has no further instructions,

JB



he does not wish to make oral submissions. He, therefore, submitted that the matter may be decided on the basis of the pleadings. None had appeared for the respondents in spite of several opportunities. Therefore, we dispose of this application after perusal of the pleadings.

3. The applicant submits that he was directly recruited through the Union Public Service Commission as Deputy Commissioner (Soil Conservation, Inspection and Cooperation) w.e.f. 18.9.1985. The next promotion post in the department was the post of JC (FC&WM). He states that the post of JC (FC&WM) which fell vacant on 31.3.1989 has not been filled up till the filing of this application. He submits that due to the inaction of the respondents, he would be put to an irreparable loss if he is denied the next promotion to the post of Joint Commissioner and thereafter Additional Commissioner. He further submits that another post of Joint Commissioner fell vacant on the promotion of one, Dr. Suraj Bhan, on 29.6.1990. The applicant states that he became at Serial No. 1 in the order of seniority at that time. The applicant has further submitted that even though two posts of Joint Commissioner had fallen vacant in 1989 and 1990, only one promotion had taken place and he had been deprived of his further prospects of promotion. According to the applicant, he had made representations on 24.12.1991 and 29.1.1992 and thereafter had filed this application seeking a direction to the respondents to hold a regular DPC and to promote him, if found suitable from the retrospective date from which the post fell vacant with all consequential benefits like seniority, increments, etc.

4. The respondents have stated that one post of JC (FC&WM) fell vacant on 1.4.1989. At the time of occurrence of this vacancy, under the relevant recruitment rules notified on 12.8.1986, the post was to be filled (i) 50% by promotion failing which by transfer on deputation and failing both by direct recruitment and (ii) 50% by transfer

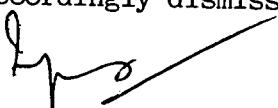
2(b)

on deputation. According to the respondents, when the vacancy arose in 1989, since it fell at Point No. 2, the same was required to be filled by transfer on deputation. On a representation made by the applicant that the post may be filled ~~up~~ on the basis of the revised recruitment rules which were under process, the respondents took up the matter with the DOP&T. That department issued a letter dated 21.6.1990 providing 100% promotion from the feeder cadre of Deputy Commissioners. The respondents have submitted that they took special relaxation for filling up the vacancy by promotion on the basis of the revised recruitment rules. Under the revised recruitment rules, the posts of Deputy Commissioner (Sedimentation), Deputy Commissioner (Hydrology) and Deputy Commissioner (Watershed Management) were also added to the feeder cadre of persons who were eligible for promotion to the next higher grade. A revised seniority list of Deputy Commissioners was also prepared and circulated on 12.3.1990 and upon representations by one of the Deputy Commissioners, the final seniority list could be settled only in September, 1991. The UPSC to whom the proposal to hold the DPC was sent in January, 1991 did not entertain the same, saying that the seniority disputes be settled first. Immediately after finalisation of the seniority dispute by issue of final inter-seniority list on 4.9.1991, the UPSC had been approached by the respondents for holding the DPC. On this also, UPSC sought certain clarifications and they had explained that although the DPC had met on 12.5.1992, the matter had not been finalised. The respondents have also stated that the next meeting to finalise the case will be held by the UPSC shortly. They have further submitted that the post of Joint Commissioner is a selection post and under the recruitment rules, it was to be filled by promotion failing which by transfer on deputation.

(X)

5. From the facts narrated above, the delay in finalising the selection of the post of JC (FC&WM) was not entirely due to any inaction on the part of the respondents. On revision of the recruitment rules, the respondents had in considering the request made by the applicant taken steps for obtaining the consent of the competent authority for relaxation of the rules for filling up the vacancy by promotion on the basis of the revised recruitment rules. It is also relevant to note that the respondents have submitted in their reply to the O.A., as well as the Miscellaneous Application, that the DPC to finalise the selection to the post of JC (FC&WM) was to be held shortly and the applicant will also be considered for promotion. The respondents have submitted that the applicant is not the only eligible officer in the feeder cadre but there were many other officers who are also eligible for consideration for promotion. In the circumstances, the claim of the applicant that he should be considered for ad hoc promotion is without any merit. The respondents have also stated that the present incumbent of the next higher post of Addl. Commissioner, which is also one post, is to retire about six year later. Therefore, in the circumstances, the claim of the applicant that he would have been in the zone of consideration for the post of Addl. Commissioner is baseless. The net result is that in the facts and circumstances of the case, the respondents cannot be faulted for any inaction or wanton delay in filling up the vacant post of JC(FC &WM) to justify any interference in the matter. It is presumed that the DPC proceedings which were scheduled to be held in 1992 have since been finalised and promotions have been duly made. Neither the applicant nor his counsel have apprised the Tribunal of the latest position to warrant any interference in the matter.

6. In the result, we find no merit in this O.A. and it is accordingly dismissed. No order as to costs.


(K. Muthukumar)
Member(A)


(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'