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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 2494 of 1993
1st Day of December, 1993

Hon'ble Mr. J.P. Sharma, Member (J)
Hon'ble Mr. B.K. Singh, Member (A)

Ashutosh Prasad
3rd Floor, Agarwal Building,
Near Hotel Broadway,
14/4, Asaf Ali Road,
New Delhi

Applicant

By Advocate: Shri P.K. Srivastava

VERSUS

1. Union of India, through
The Cabinet Secretary,
Government of India,
New Delhi.
2. The Secretary to Govt. of India,
Ministry of Finance,
Government of India,
North Block, New Delhi
3. The Revenue Secretary
Ministry of Finance,
Government of India,
North Block,
New Delhi.
4. The Chairman,
Central Board of Direct Taxes,
Department of Revenue,
Ministry of Finance,
North Block, New Delhi.

Respondents.

By Advocate: None

O R D E R (ORAL)

(BY Hon'ble Mr. J.P. Sharma, Member (J))

The applicant is working as Deputy Commissioner of Income Tax and has assailed the selection held by the respondents on 19th, 20th and 21st October, 1993 for the promotion to the post of Commissioner of Income Tax. He has prayed for the grant of relief that the aforesaid selection held on 19th, 20th and 21st October, 1993, be quashed and fresh selection be ordered to be held.

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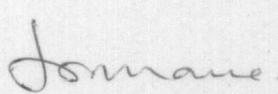
2. The learned counsel for the applicant has pressed two major arguments to make out a *prima facie* case for admission. Firstly, in the method of recruitment in column 4 of Schedule 2 for promotion to Senior Administrative Grade (Commissioner of Income Tax) eligibility is Deputy Commissioner, Income Tax/Deputy Director, Income Tax with 8 years regular service in the non-functional grade or 17 years regular service in a Group 'A' Indian Revenue Service out of which 4 years should be in the grade of Deputy Commissioner, Income Tax. The contention of the learned counsel for the applicant is that those who have been considered were given selection grade w.e.f. 1.4.86 and he referred to Civil List (annexure 2 of the O.A.) where the name of the applicant figures at Sl. No.20. It is further contended that beyond Sl. No.39 the selection grade has been allowed w.e.f. 1.2.87 and since selection was held in October, 1993, 8 years regular service in selection grade is not complete and hence the zone of consideration taken by the DPC is not according to the rules which vitiated the selection itself. The other contention of the learned counsel is that the guidelines issued for the DPC (annexure A-3) by DOPT by letter dated 10th March 1989 provide that the ACRs of the relevant year corresponding to the relevant qualifying service for coming in the zone of consideration has to be seen. It is stated that the DPC has only considered 8 years ACRs while 17 years ACRs were to be considered and in view of this the selection stands vitiated. Had the DPC not adopted this procedure the applicant would have had chance of selection and in this application it is prayed that the selection held on 19th, 20th and 21st October, 1993 be quashed.

3. We have heard the learned counsel at considerable length. We have put certain questions to the learned counsel on the eligibility as laid down in the rules. We have also put certain questions on the guidelines for consideration by the DPC which itself provide that the DPC can adopt its own procedure of selection. It is also argued by the learned counsel for the applicant that 8 years ACRs in general of all the candidates were perused including that of the applicant.

4. At this stage the learned counsel for the applicant made a request that he wants to withdraw the application and he has taken appropriate instructions from the applicant to this effect. The request is granted. The present O.A. is therefore dismissed as withdrawn at this stage.


(B.K. Singh)

Member (A)


(J.P. Sharma)

Member (J)