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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

O.A.No.312/93  
M.P.No.2260/93

New Delhi this the 21st day of January, 1994.

Hon'ble Mr. N.V. Krishnan, Vice-Chairman(A)  
Hon'ble Mr. B.S. Hegde, Member(J)

Shri Randhir Singh,  
S/o Sh. Munshi Ram,  
R/o Qr.No.949, Laxmi Bai Nagar,  
New Delhi.

Petitioner

(By advocate Sh. D.R. Gupta)

versus

1. Director General Health Services,  
Nirman Bhawan,  
New Delhi.
2. Deputy Director Administration(MH),  
Directorate General of Health Services,  
Nirman Bhawan,  
New Delhi.
3. Medical Superintendent,  
Safdarjang Hospital,  
New Delhi.

Respondents

(By advocate Ms. Pratima Mittal, proxy counsel for  
Sh. K.C. Mittal, counsel)

ORDER(ORAL)

delivered by Hon'ble Mr. N.V. Krishnan, Vice-Chairman(A)

The applicant has prayed for the following  
reliefs:-

- (i) To quash/set aside the impugned order dated 9.7.1992 as at Annexure-A1, in so far as it omits the name of the applicant for promotion/appointment to the post of Assistant Administrative Officer/Assistant Accounts Officer after declaring it illegal being violative of Articles 14 and 16(1) of the Constitution;
  - (ii) To declare the action of the respondents in resorting to "sealed cover" procedure as illegal being in violative of the Government instruction and law laid down by the Supreme Court on the subject;
- v

- (iii) To direct the respondents to promote the applicant to the post of Assistant Administrative Officer/Assistant Accounts Officer from the date his immediate juniors were promoted i.e. 25.6.1992, with all consequential benefits such as pay and allowances and other service benefits accruing therefrom.

The matter came up today for hearing on M.P.No.2260/93 filed by the applicant for a direction to the respondents to open the sealed cover pertaining to the recommendations of the D.P.C. in case of the applicant.

2. We have heard the learned counsel for the parties. Admittedly, the D.P.C. was held on 25.6.1992 to consider the cases of persons for promotion to the post of Assistant Administrative Officer/Assistant Accounts Officer. The case of the applicant has also been considered by the D.P.C. However, in view of the fact that certain investigations were going on against the applicant, the D.P.C. decided to place its recommendations in the case of the applicant in a sealed cover in the light of the guidelines given in para 2(iv) of the Department of Personnel O.M. No.22011/2/86-Estt.(A) dated 12.1.1988. Hence, the result of the applicant, still not known, in the meanwhile others have been promoted.

3. The learned counsel for the applicant states that the D.P.C. was not correct in taking such action because the circular dated 12.1.1988 has been drastically modified by the subsequent circular of the Ministry of Personnel dated 31.7.1991, a copy of which has been produced for perusal. According to that circular, the



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Government have reviewed the instructions contained in the 1988 circular in the light of various judicial pronouncements and "It has been decided in consultation with Ministry of Law that para 2(iv) of the O.M.No.22011/2/86-Estt.(A) dated 12.1.1988 be deleted with immediate effect. It is further clarified that all cases kept in a sealed cover on date of issue of this O.M. i.e. dated 31.7.1991 on account of conditions obtainable in para 2(iv) of the O.M. dated 12.1.1988 will be opened."

4. The learned counsel for the respondents was asked whether, in the light of this circular, it was not the duty of the respondents to open the sealed cover and proceed further in the matter on the basis of the recommendations contained therein. The learned counsel states that the Department of Personnel has issued another circular which has come into effect only on 14.9.1992 and, therefore, it would not apply to the facts of this case. That circular has not been produced. It is stated that prior to that date, the O.M. dated 12.7.88 was in force.

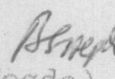
5. In reply to this averment of the respondents, learned counsel for the applicant has produced a photocopy of the circular dated 31.7.1991 referred to above, which has also been mentioned in the rejoinder, to show that the O.M. dated 12.1.1988 stood amended before the D.P.C. was held on 25.6.92..

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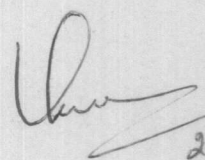
6. We are clearly satisfied that this case has to be disposed of in the light of the circular dated 31.7.1991. Accordingly, we direct the respondents to open the sealed cover in respect to the applicant and take action in accordance with law on the basis of the recommendations of the D.P.C. contained in sealed cover within a period of one month from the date of receipt of this order.. M.P. is disposed of.

7. In view of this direction, the prayer made for directing the respondents to promote the applicant etc. will not subsist, for <sup>or</sup> ~~and~~ that will depend on the recommendations made by the D.P.C. The O.A. itself is allowed with the aforesaid direction as nothing <sup>else</sup> ~~is~~ remains for adjudication.

No costs.

  
(B.S. Hegde)

Member(J)

  
21.1.84  
(N.V. Krishnan)  
Vice Chairman(A)