

Court No. 1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (T.A.) No. 1042 of 1987.

(Civil Misc. Writ Petition No.1718 of 1982)
(High Court of Judicature at Allahabad, Lucknow Bench, Lucknow)

Jai Dayal Petitioner.

Versus

Union of India & another Respondents.

Hon'ble Justice K. Nath, V.C.
Hon'ble K.J. Raman, A.M.

The Writ Petition, described above, is before us by transfer under Section 29 of the Administrative Tribunals Act,1985 and the relief sought is to quash the petitioner's order of reversion (contained in Annexure 'I') dated 14.4.1982.

2. The petitioner was an officer of the Provincial Civil Services (Executive) (PCS (Ex.)), appointed on 29.1.1957, and was posted as Registrar, Firms, Societies and Chits till 1.7.1979. On 30.1.1982 a warning was communicated to him by Annexure 'II' mentioning, *inter alia*, that he had made appointments of four daily wagers without sanction of the State Government and had appointed a particular person as an Accountant against the procedure prescribed by the rules. According to the applicant, he had made a representation against that warning on 7.6.1980, but it remained pending with the State Government.

3. In the meantime a Selection Committee met from 15th to 17th December,1980 for preparing a select list of officers of the PCS (Ex.) for promotion to the Indian Administrative Services (IAS). The petitioner was approved and was placed on the select list. On 5.5.1981 he was appointed in the senior grade of the IAS by order (Annexure 'III') and he joined as Chief Development Officer (CDO), Bareilly on 7.5.1981.

4. On 21.12.1981, however, an adverse entry was recorded in his Annual Confidential Report (ACR) for the year 1979-80, on

the basis of the warning contained in Annexure 'II'. The adverse entry was communicated to the petitioner, who received it on 2.1.1982 (vide para 37 of the writ petition, admitted in para 34 of the counter affidavit of respondent no.2). Shortly thereafter sometime in December,1981 the Selection Committee met again. The Committee considered the adverse entry (Annexure 'IV') and the petitioner's name was deleted from the select list. The fact of the adverse entry, being considered by the Selection Committee, is stated in para 39 of the writ petition and is not denied in the counter affidavit.

5. Having been excluded from the select list drawn in December,1981, the impugned order of reversion of the petitioner was passed on 13.4.1982 and communicated to him under the Collector's endorsement (Annexure 'I') dated 14.4.1982. The appointment Secretary's letter to the Collector, containing the order of reversion, mentions that since the petitioner's name was not included in the select list of 1982, he was reverted from the post of CDO to the post of Managing Director (MD), Regional Development Corporation, Bareilly, a post in the PCS cadre, in the scale of Rs.1840-2400.

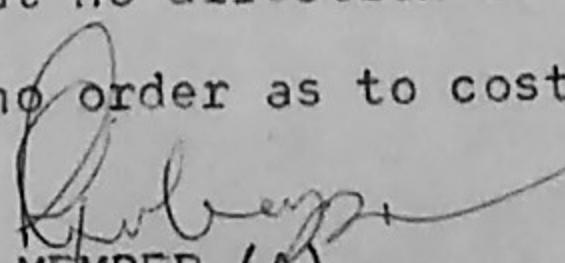
6. The petitioner's case is that the adverse entry dated 21.12.1981 was communicated to him only after the Selection Committee of December,1981 had met and, therefore, it could not be considered by the Selection Committee. Reliance has been placed on the decision of the Hon'ble Supreme Court in the case of Gurdial Singh Fiji v. State of Punjab & others (AIR 1979 S.C. 1622). It is also contended that the representation, which the petitioner had made against the warning, on the basis of which the adverse entry was recorded, had also not been decided before the Selection Committee met. Emphasis has also laid upon the fact that the Selection Committee, which had met between 15th & 17th December,1980, had cleared the petitioner for promotion to the IAS and that in

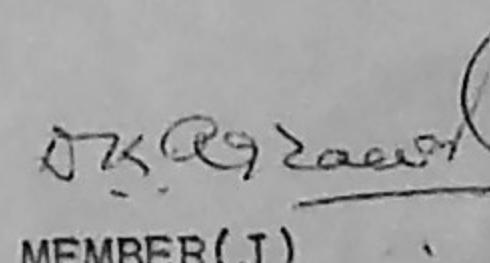
advertised on 5-2-1983 (Annexure-II).

4. The contention of the respondents is that C.G.H.S. is in operation in 15 cities and as part of the Scheme, the posts of Ayurvedic Physicians also are sanctioned. Wherever, they have a sanctioned strength of two Ayurvedic Physicians, the policy is to post one lady Physician and one male Physician. Recruitment to these posts is done centrally by UPSC. In the advertisement dated 5-2-1983 applications were called for 7 posts, out of which 5 posts are reserved for women to make good short fall of lady Physicians. This is done in pursuance of the policy, to have a complement of one male Physician and one lady Physician in important cities.

5. We have heard the counsel for both the parties and perused the documents on record.

6. The facts in this case are admitted. The applicant admits that his appointments, both at Ahmedabad and Allahabad were ad-hoc and liable for termination without notice and his services were terminated due to joining of candidates selected by U.P.S.C. The recruitment challenged by the applicant relates to the year 1983. The developments since then are that the candidates selected joined the service and the applicant was also relieved on 19-9-1984. In view of this we hold that the petition is infructuous. No malafides or irregularity alleged in the matter of recruitment and posting of candidates. In the circumstances we consider that no direction is called for. The petition is rejected with no order as to costs.


MEMBER (A)


MEMBER (J)

(sns)
December 8, 1989
Allahabad.