

28-8-95

Hon'ble Mr. Justice B.C. Saksena, V.C.  
Hon'ble Mr. S. Das Gupta, A.M.

Heard Learned Counsel for the Applicant. This O.A. is directed against the order dated 4-4-1994, rejecting the Applicant's representation made with regard to the selection for the post of A.P.O. held in the year 1987 for the reasons given in the said order. We also find from Annexure-2, copy of the Appeal, filed by the Applicant that in Para 1, he himself has stated that he appeared in 1987 selection, but he was not empanelled. His grievance is that one Shri P.C. Gupta, has been empanelled and, therefore, he has filed the said Appeal. From the material placed on record, it further appears that the panel for the said post of A.P.O. was drawn up in the year, 1989 in pursuance of the selection held in the year 1988. Subsequently, the said panel was quashed on the basis of certain irregularities and fraud which came to light. That order of cancellation of the panel was questioned by the Applicant by means of O.A. No.1061/89 filed before this Branch of the Tribunal. The other aggrieved candidates filed OAs. No.1060/89, 123/90 before this Tribunal and one OA was filed by other aggrieved personnel before the Patna Bench being OA No.352/89. By an order passed by the Principal Bench, when a request for transfer of the O.As. to the Patna Bench was made, all the cases were transferred to the Patna Bench. There was difference of opinion between the members constituting the Division Bench, the matter was referred to a third member i.e. the present V.C. of the Bench. By the judgement passed in all the four cases, T.A.s were allowed with certain direction.

The Learned Counsel for the Applicant has stated stated before us that in pursuance of the decision by the third member of Patna Bench, the Applicant was promoted to the post of A.P.O. and has since retired. The question

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is that if at a later selection, the Applicant has been empanelled and on the basis of the judgement rendered by the third member, he has also been promoted to the post of A.P.O, and since retired, it will not be open to the Applicant to open an old issue which challenges the earlier panel of 1987 and admittedly the Applicant has failed to qualify in the said selection. In the light of the above, the O.A. lacks merit and is accordingly dismissed summarily.

We have also gone through the orders passed in the Appeal preferred by the Applicant against his non-empanelment in 1987 panel. The reasons are cogent. The Learned Counsel for the Applicant has not been able to indicate anything <sup>against the said reasons. for</sup> material involved. ~~it lacks merit. Dismissed.~~ It is accordingly dismissed summarily. *RBD*

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RBD/

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