

Central Administrative Tribunal, Lucknow Bench, Lko

this the 7th day of August, 2003
O.A. No. 368/2003

HON'BLE MR. A.K. MISRA, AM

HON'BLE MR. A.K. BHATNAGAR, JM

Jitendra Nath Mishra son of Sri Pt. Ramesh Chandra
working as Special Secretary, Uttranchal Coordination,
Govt. of U.P., Civil Sectt., Lucknow

...Applicant

By Advocate: Sri R.K. Awasthy

Versus

Union of India through the Secretary, Personal
Department, Govt. of India, New Delhi.

2. The Chairman, UPSC, Dholpur House, New
Delhi.

3. The State of U.P. through the chief
Secretary, Appointment Department, U.P. Shasan, Lucknow.

...Respondents

By Advocate: For Respondent No. 1 Sri S.P. Singh, for
respondent No. 2 Sri Rajendra Singh B/h for Sri A.K.
Chaturvedi and for respondent No. 3 Sri Sudeep Seth.

...Respondents

ORDER

MR. A.K. MISRA, AM

The relief claimed in this O.A. is for
issue of directions to the respondents to constitute
a fresh DPC for reconsidering the case of the applicant
for promotion from the PCS to IAS from the year 1991
onwards as per law laid down by the Hon'ble Supreme
Court in the case of Amar Kant Chowdhary.

2. Learned counsel for the parties have been
heard on the question of maintainability.

3. It was brought to our notice on behalf of
the respondents that the applicant had claimed a
similar relief in O.A. No. 388/95 which was decided
with the following directions:-

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"the O.A. is allowed with a direction to the respondents to convene a review DPC for considering the case of the applicant for promotion from PCS (E) to IAS along with PCS (E) officers of 1967 batch and thereafter to pass consequential orders.

The above order be complied within a period of three months from the date of communication of this order."

4. Subsequently for non-compliance of the directions given in O.A. No. 388/95, CCP numbered as 95/2002 was filed in which the following observations were made by this Tribunal:-

"We do not think that the letter dated 21.10.2002 from the UPSC in any way, is in compliance of the directions of this Tribunal. We accordingly grant one more opportunity to the UPSC and direct that in terms of the directions given in O.A. No. 388/95 the review DPC be convened within a period of 2 months from the date of communication of this order. If the Review DPC is not convened within the aforesaid period of two months, the bench on the next date may consider the feasibility of summoning any one or more of the respondents arrayed in the CCP."

5. It was submitted on behalf of the Respondents that in the present O.A., same relief has again been claimed during the pendency of the CCP. The only prayer made on behalf of the applicant during the course of hearing on the question of maintainability was that a direction be issued to hold a fresh DPC for reconsideration of the applicant's case for promotion to the IAS from the year 1991 onwards in the light of the decision of the Hon'ble Supreme Court of India in the case of Amar Kant Chowdhary Vs. State of Bihar and others, 1994, SCC (L&S) page 173. It was submitted on behalf of the applicant that in the review DPC directed to be held by this Tribunal in O.A. No. 388/95, the respondents are not likely to consider the case of the applicant for promotion to the IAS in the light of the decision of the Hon'ble Supreme Court in the case of Amar Kant Chowdhary (Supra) and accordingly it was argued that ~~the~~ directions should be issued to




the respondents to consider the applicant's case for promotion in the light of the decision of the apex court.

6. We have heard counsel for the parties. We do not find any justification for the applicant's apprehension that ~~ten~~^{the} respondents in the review DPC will not consider the applicant's case for promotion to the IAS in the light of the decision of the apex court in the case of **Amar Kant Chowdhary (Supra)**. No reason was given on behalf of the applicant for such an apprehension, which in our view is not justified as even otherwise the respondents are under an obligation to consider the applicant's case for promotion to the IAS in the light of the decision of the apex court in the case of **Amar Kant Chowdhary (Supra)**.

7. In view of the foregoing we are of the opinion that since the relief claimed in the present O.A. is similar to the relief claimed in the earlier O.A. No. 388/95 in respect of which CCP No. 98/2002 is still pending, the present O.A. claiming the same relief is not maintainable.

8. The O.A. is accordingly disposed of as not maintainable without any order as to costs.


MEMBER (J)


MEMBER (A)

LUCKNOW:DATED: 7th August 2003

HLS/-