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applicant who was already working as Welfare Assistant with vested right has been over-looked and that the post of Welfare Assistant being a higher post, the criteria of seniority-cum-fitness was not observed. The applicant alleges favouritism, ⁱⁿ the appointment of A.K. Kastogi since he was not eligible and also there was no recommendation by the concerned officers in his case and the appointment is arbitrary and illegal. It is contended by the applicant that post has been filled up on deputation but actually it is not on deputation since there cannot be deputation within the same department and that the post of Welfare Assistant is a promotional post.

3. The respondents have opposed the case and it is pointed out that the post of Welfare Assistant is ex-cadre post for which appointment is made by transfer on deputation for a period of 2 years. One Kulshresth, the previous incumbent represented for his relief before completion of his turn and that's why after inviting options from eligible candidates the post was filled up in accordance with rules.

~~1.7.77~~ Six candidates were recommended by the Branch Officer, the Group Officer and all the candidates possessed ^{the} requisite qualification. The D.P.C. considered the relevant merits and suitability of the candidates and selected A.K. Kastogi who was appointed. It is stated that Kastogi took over from the previous incumbent and the applicant was never appointed at any time as Welfare Assistant. It is also stated that the post is not a promotional post but an ex-cadre post. It is filled-up according to the recruitment rules, which

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have been notified in gazette of India dated 20.6.82 and that it has been declared as deputation post by no other authority than the president himself.

4. We have heard the counsel of the parties. On behalf of the applicant, it was urged that the applicant deserves the post on the basis of seniority and that there cannot be deputation within the department. Reliance has been ~~maxx~~ placed on certain decisions of the Tribunal on the point of deputation. In S.L. Singh V. Union of India and others (1982) (10) AIC page 525, Chandigarh Bench observed :

"It is now well settled that deputation is just a transfer of a Govt. employee from one department to another or from one government to another i.e., from Central Government to State Government or State Government to State Government or State Government to Central Government."

Reference was also made to the case of Vinod Kumar B. vs. Union of India and others (1982) (10) 604 wherein the Tribunal held as follows :

"To our mind the normal conception of deputation in service jurisprudence is the loaning of the services of an officer belonging to one department to another department."

Reliance was also placed in the case of Mr. Valsar Vs. Development Commissioner, S. 191 and 192 of 1974 wherein it was observed that :

"As far as the meaning of deputation is concerned there cannot be any dispute that a person from another department if so appointed is assigned to his parent department after expiry of deputation period. It will not therefore be possible to

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accept Mr. Daniel's submission that a person who belonged to the department can be recruited to some other post in the very department on deputation."

5. The notification dated 26.11.86 inviting the applications indicates that volunteers in senior auditors/ auditors/stenographers cadres willing for a deputation on deputation to the post of Officers in charge should apply. The notification also mentions that the post is a non-regular post and the appointment will be for a period of four years subject to continuing suitability and that the person selected will be entitled to draw his grade pay, deputation duty allowances at the scale of the post. In the notification it is very clear that the post is a non-promotional post and being a non-regular post, only those persons from suitable cadres from amongst those who are willing to take the post on deputation for a period of four years of the applicant that being a promotional post, the criteria of seniority-cum-fitness should have been followed by the D.P.C. is evidently mis-conceived. If appointment to this post is from only those who are senior to not all the senior auditors, but also others who are senior to them if they satisfy other conditions relating to service record, aptitude etc. Since it is not a regular post, there being no fixed line of promotion, preference was given to the person having a special experience in cultural and sports field. The selection was made by the D.P.C. in accordance with rules. The applicant was also one of the candidates considered by the D.P.C. One Mr. A. S. Singh was found more suitable and selected for the post. Preference was given to him. This is a non-regular post, pay or other allowances and monetary benefits, but after completion

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of the tenure of four years, whoever is appointed has to be got back to his seat. Appointment to the post confers no right of seniority, no right for promotion to higher post. The seniority and lien in the main line remains intact. Much has been said about the term "deputation" and it was argued that there can be no deputation within the same department. The term "deputation" has no doubt certain connotation. But technically if an employee is sent to work on "ex-cadre" posts, which is not a post in the regular line for any section or branch, it can be said to be a case of deputation; for whatever 'terms' benefits, pay-scale etc. are attached to the post, the deputation is the same only so long as he is there and he cannot carry this when he reverts to his regular post. In this sense, there could be deputation within the same department also. Since the selection was made by the S.P.C. there can be no interference. Reference may be made to the case of Balraj Lal Bahadur Sahni vs. V.S. Sahajan, A.I.M. 1990 SC page 134, wherein Supreme Court observed that :

"It is not the function of the court to hear an appeal over the decision of the selection committee and to scrutinize the relative merit of the candidate. The decision of the selection committee can be interfered with only on limited ground as such illegalities or patent material irregularities in the circumstances of the committee or its procedure vitiating the selection or proved mala fides."

The applicant has not made any allegation against constitution of the S.P.C. as such we do not find any ground for interference in the matter. The application is devoid of merit and accordingly, it is dismissed with no order as to costs.

[Signature]
Member

[Signature]
Vice-Chairman

acknowledged: 15.3.1993

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