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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.494/91

Date of Order: 14.2.94

BETWEEN :

M.Sivarama Krishna Murthy .. Applicant.

A N D

1. The Chief Commissioner of Income-tax, Andhra Pradesh, Ayakar Bhavan, Bashirbagh, Hyderabad.
2. The Central Board of Direct Taxes, Rep. by its Secretary, North Block, New Delhi.
3. Sri R.Jayarama Sharma, Income-tax Officer, Nalgonda.
4. Sri P.Anantaramulu, Income-tax Officer, Bashirbagh Circle 1, Hyderabad.

.. Respondents.

Counsel for the Applicant .. Mr. Duba Mohan Rao

Counsel for the Respondents .. Mr. N.R.Devraj

CORAM:

HON'BLE SHRI A.B.GORTHI : MEMBER (ADMN.)

HON'BLE SHRI T.CHANDRASEKHARA REDDY : MEMBER (JUDL.)

ORDER

¶ As per Hon'ble Shri A.B. Gorthi, Member (Admn.) ¶

The applicant while working as ^{an} Income-tax Inspector appeared for the Departmental examination for promotion to the post of Income-tax Officers' Group-B, held in July 1989. The result of the examination was published vide memo dt. 29.3.1990. The applicant was shown as qualified in the examination. The memo further states "that the candidates are declared to have passed the Departmental examination for Income-tax Officers Group-B completely with effect from 25 July 1989". The applicant thus became fully eligible to be promoted to the post of Income-tax Officers' Group-B but the respondents took their own time and held the DPC as late as on 1.1.1991. The applicant's contention is that though the respondents conducted ^a DPC on 8.9.89, they improperly omitted his name for consideration for promotion to the next higher post. Consequently he prays by means of this application for a direction to the respondents to convene a review DPC in respect of the DPC held in September 1989 so that his name could be considered by the review DPC for promotion.

2. The respondents in their reply affidavit have not disputed the various facts stated by the applicant in his application. They have further clarified that as per practice in vogue, whenever results of the examination for promotion to Income-tax Officers' Group-B were declared

the candidates were declared to have passed the said examination with effect from the ~~such~~ ^{last} date of the examination. This ~~is~~ ^{was} being done only for the limited purpose of enabling the successful candidates to ~~be~~ ^{claim} ~~eligibility~~ ^{advance} ~~eligible for increment/confirmation.~~ As far as consideration of the name of the successful candidates by the DPC is concerned it could be done only by a DPC held after the results were duly declared. In the case of the applicant the actual date when the result was declared was 29.3.90 and accordingly his name could not be considered by the DPC held on 8.9.1989. Consequently his name was placed before the DPC held on 1.1.1991.

3. From the reply affidavit we find that the following pattern was followed, atleast, for the years 1989-90.

Year of Exam	Date of Exam	Date of result declared	Date of holding DPC
1989	18.7.89 - 25.7.89	29.3.90	8-9-89
1990	18.7.90 - 27.7.90	24.1.91	1.1.91

4. From the above it would be seen that the DPC ~~was being held after the conclusion of the examination but~~ before the results were declared, for the purpose of ~~grant of advance increment.~~ A more than appropriate method to be adopted by the department would be to hold the DPC

only and immediately after the results were declared.

5. Notwithstanding the same, the improper method that was followed by the respondents, we are of the considered view that so far as the applicant herein is concerned he qualified in the examination along with 17 other candidates as per memo dt. 29.3.1990. As the result was announced only on that date there could not be any ~~impropriety~~ ^{irregularity} or ~~unjustification~~ if the DPC ^{that has} held in Sep. 1989 did not consider the name of the applicant as his name was properly and correctly considered by the next DPC held on 1.1.1991. What was applied to the case of the applicant was also followed in respect of the other 17 candidates who passed the examination together with the applicant.

6. Mr. GVRS. Vara Prasad, learned counsel for the applicant laid considerable stress on the manner in which the respondents delayed the declaration of the result and held ^{that} the DPC prior to the publication of the result. Had the result been announced soon after the examination was held, the applicant would have ^{had a} taken ^{chance} to be considered by the DPC held in Sep. 1989 itself. The promotion of the applicant was thus considerably delayed. We see much merit in what is urged before us by the applicant's counsel but at the same time we find what the respondents were doing was, as a matter of routine practice. There is no ~~revenge or any malafides~~ ^{allegation of any malafides} against any of the respondents.

To

1. The Chief Commissioner of Income-tax,
Andhra Pradesh, Aayakar Bhavan, Bashirbagh, Hyderabad.
2. The Secretary, Central Board of Direct Taxes,
North Block, New Delhi.
3. One copy to Mr. Duba Mehan Rao, Advocate, CAT.Hyd.
4. One copy to Mr. N.R. Devraj, Sr.CGSC.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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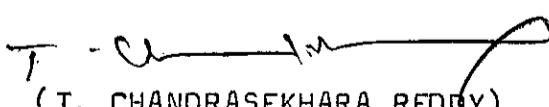
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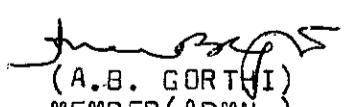
7. We also find that the applicant was in fact considered by DPC held in January 91 along with all those who qualified in the examination held in July 89.

The DPC that was held in Sep: 1989 did not consider any of the candidates who qualified in the examination held in July 89 but considered the names of only those who qualified in the same examination held in 1988. In these circumstances, we find that the applicant has not been singled ^{out} down for any unfair treatment. Accordingly we cannot accede to the request of the applicant for holding ~~an~~ review DPC.

8. As regards holding ~~an~~ review DPC, ordinarily ~~an~~ review DPC can be held if and only when a candidate is improperly omitted from being considered for promotion along with his batch mates. The applicant having been considered by DPC along with those who qualified in the examination held in July 89, we see no justification for directing the respondents to convene a review DPC as requested by the applicant.

9. In the afore said circumstances, the application is dismissed but there shall be no order as to costs.


(T. CHANDRASEKHARA REDDY)
MEMBER (JUDL.)


(A.B. GORTI)
MEMBER (ADMN.)

Dated : The 14th February 94.
(Dictated in Open Court)

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Deputy Registrar (J)