

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 16.1.2001

TA No.8/99 (SBCWP No. 3887/1996)

Swatantra Kumar Vohra s/o Shri B.N.Vohra aged about 44 years, r/o
4/4, Aravali Vihar, Kala Kuwan, Alwar.

.. Petitioner/applicant

VERSUS

Kendriya Vidyalaya Sangathan through Commissioner, New Delhi.

.. Respondent

Mr. P.C.Sharma, Counsel for the applicant

Mr. Hawa Singh, Proxy counsel to Mr. V.S.Gurjar, counsel for the
respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr. A.P.Nagrath, Administrative Member

Order

Per Hon'ble Mr. S.K.Agarwal, Judicial Member

SB Civil Writ Petition No.3887/96 was filed by the
applicant before the High Court of Judicature for Rajasthan with
the prayer to direct the respondents to consider candidature of the
petitioner for appointment on the post of Principal and to appoint
the applicant on the post of Principal in accordance with the panel
prepared in July, 1995 with all consequential benefits.

2. Reply was filed. In the reply it has been categorically
stated that claim of the petitioner for appointment on the post of
Principal on the basis of reserved panel is thoroughly misconceived
and misleading. It is also stated that 92 vacancies of General, SC,
ST and OBC category candidates were advertised in February, 1995
which were for the academic session 1994-95 and appointment to 83
selected candidates from the select panel based on the interviews
held in June-July, 1995 were made keeping in view the Government of
India instructions. It is also stated that vacancies available in

December, 1995 were in fact meant for direct recruitment (current as well as backlog vacancies) to be filled in during 1995-96 and there were no posts of Principals available for appointment during 1995 for appointing the candidates from the reserve panel of 1994-95, which has no legal force. It is also stated that identical issue was raised before the Hon'ble High Court of Judicature for Rajasthan in SB Civil Writ Petition No. 3151/1996 Rampal Shivran v. Kendriya Vidyalaya Sangathan and ors. and Hon'ble High Court taking into consideration the facts and circumstance of the case as well as law laid down by the Apex Court in the case of State of Bihar v. Madan Mohan Singh, (1994) Supp. 3 SCC 308 dismissed the Writ Petition vide order dated 6.10.1998. It is further stated that even otherwise, keeping the reserve list for unlimited period for appointment on future vacancies shall itself be violative of Articles 14 and 16 of the Constitution of India. Therefore, it is stated that action of answering respondent is perfectly legal and in consonance with service law jurisprudence and this Original Application is devoid of any merit and is liable to be dismissed.

3. Additional reply was filed by the respondents which is on record.

4. Heard the learned counsel for the parties and perused the whole record.

5. It is an undisputed fact that a Writ Petition No.3151/1996, Rampal Shivran v. Kendriya Vidyalaya Sangathan and ors. was filed before the Hon'ble High Court of Judicature for Rajasthan on identical facts and the Hon'ble High Court of Judicature for Rajasthan dismissed that Writ Petition having no merits. It is also abundantly clear that select panel was prepared and operated in accordance with instructions issued by the Government of India from



time to time and persons put in the reserve panel has no indefeasible right to appointment. In State of Haryana v. Subhash Chandra Marwaha and ors. 1973 SC 2216, the Apex Court held that after selection list it is open to the Government to decide how many appointments shall be made. The mere fact that the candidate's name appears in that list does not entitle him to be appointed. In Madan Lal v. State of Jammu and Kashmir and ors., AIR 1995 SC 1088, it was held that if requisition is for 11 vacancies and merit list is prepared for 20 candidates, the moment the 11 vacancies are filled in from the merit list, the merit list gets exhausted or if during the span of one year from the date of publication of such list all the 11 vacancies are not filled in, the moment the year is over, the list gets exhausted. The same view has also been followed by Hon'ble the Supreme Court in Surendra Singh and ors. v. State of Punjab and ors., JT 1997 (7) SC 537 and it was further held that the candidates in the waiting list has no vested right to be appointed except when a candidate selected does not join and the waiting list is still operative. In Satish Kumar v. Kurukshetra University and ors., 1999 (1) SLJ Punjab and Haryana High Court page 228, it was held that panel expires with the appointment of persons to the extent of advertised vacancies or after one year. In Government of Orissa v. Shri Har Prasad Das and ors., 1998 (1) SC ATJ 176, it was held that it is the policy of the Government to fill up a post or not unless it is shown to be arbitrary, it is not open to the Tribunal to interfere with such a decision of the Government and direct it to make further appointment. Mere empanelment or inclusion of one's name in the select list does not give him a right to be appointed.

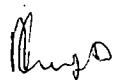
6. In view of the settled legal position and facts and circumstances of this case and the identical matter already disposed of by Hon'ble High Court of Judicature for Rajasthan, we



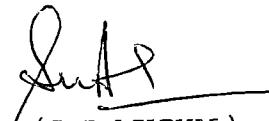
: 4 :

find no merit in the claim of the applicant and, therefore, we are of the considered opinion that this Original Application is liable to be dismissed having no merits.

7. We, therefore, dismiss this Original Application having no merits with no order as to costs.


(A.P.NAGRATH)

Adm. Member


(S.K.AGARWAL)

Judl. Member