

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE**

ORIGINAL APPLICATION No. 170/00197/2017
TODAY, THIS THE 14th DAY OF AUGUST, 2018
HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE SHRI DINESH SHARMA, ADMINISTRATIVE MEMBER

T.M. Sampath,
S/o. Late Shri Munisamy Mudaliar,
Aged about 61 years,
Retired Administrative Officer, NWDA,
R/o. H.No. 34, 1st Block, IIIrd Main Road,
Banashankari Third Stage,
Bangalore : 560 085

... Applicant.

(Applicant present in person)

v e r s u s

1. The Secretary to Government of India,
Ministry of Water Resources,
ShramShakti Bhawan,
Rafi Marg, New Delhi
2. The Director General,
National Water Development Agency.
18-20, Community Centre,
New Delhi – 110 017
3. Shri S.G. Sood,
Deputy Director (Admn.),
From 1.11.1000 to 31.10.2004
National Water Development Agency,
R/o. AH-40, Shalimar Bagh,
Delhi – 110 052

... Respondents

(By Advocate Shri B.P. Puttasiddaiah)

ORDER

Hon'ble Shri Dinesh Sharma, Administrative Member

The case of the applicant is that when he was working as Stenographer Grade-1 (now Private Secretary), on 19.01.2000, the Recruitment Rules for the post of Deputy Director (Admn.) were amended to fill the post by composite method of promotion/deputation by selection from among officers under State/Central Government. Though he had requested for consideration of his name by the Selection Committee for promotion to this post, it was ignored and the Committee

selected a panel of 4 officers, namely (i) Shri P. Balakrishnan, (ii) ShriKrishan Kumar, (iii) Shri S.G. Sood and (iv) Shri Rajiv Mangotra. Shri P. Balakrishnan was appointed out of them on 16.05.2000. On retirement of Shri P. Balakrishnan on 31.10.2000, another person (Shri S.G. Sood) from the same panel was selected to fill that vacancy. The applicant has challenged this selection in various fora including through Writ Petition (No. 4385/2003) before the Hon'ble Delhi High Court which was transferred to CAT, Principal Bench, New Delhi, which eventually dismissed it, alongwith three other similar matters raised by him, by a detailed order in 2008. Another Writ Petition (No. 8645/2009} filed by him on the same matter before the Hon'ble High Court of Delhi was withdrawn by him in 2017, and now he has filed this O.A. His ground for challenging the selection of Shri S.G.Sood (Respondent No. 3) is that it was done without any fresh notice or advertisement and the selection from an old panel is, therefore, violative of various High Court and Supreme Court decisions.

2. The respondents have replied by way of a counter affidavit alleging that all the claims of the applicant are groundless and are barred by period of limitation and res judicata. The applicant has agitated this matter of his not being selected to the post of Deputy Director (Admn.) in various fora and the case has been decided against him by the Principal Bench of CAT in T.A. No. 196/2007. His withdrawal of Writ Petition No. 8645/2009 was also allowed with liberty to file a fresh case but not on the same grounds. On all these grounds, the O.A.deserves to be dismissed.

3. The applicant has filed a rejoinder to the counter affidavit in which besides repeating his earlier allegations, he alleges that the vacancy filled on 1.11.2000 was a fresh vacancy and appointment of Respondent No. 3 to the fresh vacancy of Deputy Director (Admn.) without issuing any fresh advertisement is a new cause of action. He also argued that since his Writ Petitions No. 4385/2003 and 8645/2009 were pending in the category of 'regular matter' before the Hon'ble High Court of Delhi and since after his retirement on 31.07.2015 he is settled in Bangalore, and

he has withdrawn Writ Petition No. 8645/2009 with the intention to file the instant O.A on 4.1.2017, "hence the question of delay does not arise". He further submits that for challenging the illegal appointment of respondent No.3, limitation is not applicable.

4. After reading the pleadings and hearing the applicant who appeared in person, it is very clear that this matter is very much barred by period of limitation. The only reason which the applicant could allege, to make it come closer in time, is his claim about the liberty given by the Hon'ble High Court of Delhi. A plain reading of the order of the Hon'ble High Court (Annexure A-6) will make it clear that there was no such liberty given by the Hon'ble High Court. The order clearly states –

"We have explained to the petitioner the implication of withdrawing the present writ petition. We have also granted him time to think over the matter. He submits that he has thought over the matter and he wishes to withdraw the Writ Petition.

The Writ Petition is dismissed as withdrawn. It would be open for the petitioner to file a fresh O.A impugning any fresh cause of action (emphasis supplied). Legal objections of the respondents are kept open."

5. The applicant has failed to give any fresh cause of action. Hence the O.A is summarily rejected. No order as to costs.

(Dinesh Sharma)
Administrative Member

(Dr. K.B. Suresh)
Judicial Member

Cvr.

Annexures referred to by the applicant in O.A :

- Annexure A-1 : Copy of Recruitment Rules for the post of Deputy Director (Admn.) as existed on 19.01.2000.
- Annexure A-2 : Copy of Office Memorandum dated 10.05.2000 with Agenda Note for the Selection Committee Meeting on 16.05.2000.
- Annexure A-3 : Copy of representation of the applicant dt. 12.05.2000.
- Annexure A-4 : Copy of Minutes of the Selection Committee Meeting held on 16.5.2000.
- Annexure A-5 : Copy of representation of the applicant date 24.04.2002.
- Annexure A-6 : Copy of order dated 4.1.2017 passed by the Hon'ble High Court of Delhi in W.P.(C)No. 8645/2009.
- Annexure A-7: Copy of 5th CPC notification prescribing the scale of pay of Rs. 6500-10500 for both pay scale of Rs. 2000-3200 and Rs. 2000-3500

Annexures referred to by the respondents in their counter affidavit :

- Annexure R-1 : Copy of Recruitment Rules applicable till 18.01.2000.
- Annexure R-2 : Copy of Agenda item for Governing Body.
- Annexure R-3 : Copy of the Minutes of Meeting of Selection Committee pertaining to said Agenda item.
- Annexure R-4 : Copy of letter dated 19.01.2000 of Ministry of Water Resources regarding amendment of Rules.
- Annexure R-5: Copy of Panel prepared by the Selection Committee.
- Annexure R-6 : Copy of O.M. No. 41019/18/97-Estt.(B) dated 13.06.2000 of DoP&T.
- Annexure R-7 : Copy of common judgements/orders dated 14.02.2008 of the Hon'ble CAT, Principal Bench, New Delhi.
- Annexure R-8 : Copy of order dated 24.11.2009 in TA No. 22/2008 passed by Hon'ble CAT, Principal Bench, New Delhi.
- Annexure R-9 : Copy of order dated 30.10.2015 in O.A. No. 2103/2015 passed by the Hon'ble CAT, Principal Bench, New Delhi.
- Annexure R-10: Copy of order dated 28.07.2008 in O.A. No. 639/2008 passed by the Hon'ble CAT, Principal Bench, New Delhi.
- Annexure R-11: Copy of order dated 08.11.2011 in LPA No. 906/2011 passed by Hon'ble Delhi High Court .
- Annexure R-12: Copy of order dated 08.03.2013 in W.P.(C) No. 5124/2012 passed by Hon'ble Delhi High Court.

Annexures referred to by the applicant in the rejoinder :

- Annexure RJ-1: Copy of minutes of Selection Committee meeting held on 23.12.2004 for selection to the post of Deputy Director (Admn.).
- Annexure RJ-2: Copies of Tribunal's order dated 17.02.2010 passed in O.A. No. 1042/2008 and High Court of Delhi order dated 13.05.2010 passed in W.P.No. 3207/2010.
- Annexure RJ-3: Copy of Tribunal's order dated 4.8.2016 passed in O.A. No. 2504/2008.

AnnexureRJ-4(Colly):Copy of Screening Committee recommendation, select panel, proposal for appointment of S/Shri Yogesh, Narender Kumar and Ajay Pratap Singh.

Annexure RJ-5: Copy of order dated 8.12.2016 passed by the Hon'ble High Court of Delhi in Writ Petition No. 9278/2015.

Annexures referred to by the respondents in their Additional Affidavit:

Annexure AA-1: Copy of the order dated 23.08.2011 passed in W.P.(C) No. 7509/2008 by Hon'ble Delhi High Court.

Annexure AA-2: O.M. dated 2.7.2012 issued by the Central Vigilance Commission.

Annexure AA-3: Copy of the order dated 28.3.2012 passed in W.P.(C) No. 8645/2009 by Hon'ble Delhi High court.