

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

R.A. NO.19/2005
in
O.A. NO.1952/2003

(3)

This the 23rd day of March, 2005.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Smt. Dropadi Seth W/O S.K.Seth,
R/O B-133, Kidwai Nagar (East),
New Delhi.

... Applicant

(By Shri S.K.Gupta, Advocate)

versus

1. Union of India through
Secretary, Ministry of Finance,
Department of Revenue,
North Block, New Delhi.
2. Chairman,
Central Board of Excise and Customs,
Department of Revenue, Ministry of finance,
North Block, New Delhi.
3. Director/Collector,
Directorate of Data Management,
DLF Centre, Greater Kailash-II,
New Delhi.

... Respondents

(By Shri N.K.Aggarwal, Advocate)

ORDER

Hon'ble Shri V.K.Majotra, Vice-Chairman (A) :

Through this application, review has been sought of order dated 17.12.2004 whereby OA No.1952/2003 was disposed of with the following directions to respondents:

“7. In the light of the facts and circumstances of this case as discussed above, this OA is disposed of with a direction to the respondents to consider applicant's claim for benefit of reservation for physically handicapped persons on the post of Assistant Director (Official Language) – Group 'B', by passing





a detailed and speaking order within a period of one month from the date of availability of recommendations of UPSC. Till then, applicant shall be allowed to hold the post of Assistant Director (Official Language) on the basis of the present arrangement.”

Review has been sought to the extent that the following portion from paragraph 7 of the order dated 17.12.2004 be deleted:

“7.from the date of availability of recommendations of UPSC.”

2. The learned counsel of applicant stated that it had been contended by applicant and not disputed by respondents that applicant had sought promotion on the basis of reservation for physically handicapped person on the post of Assistant Director (Official Language), which is a Group ‘B’ post. The learned counsel stated that while directing the respondents to consider applicant’s claim for benefit of reservation for physically handicapped persons on the post of Assistant Director (Official Language) – Group ‘B’ by passing a detailed and speaking order, the condition of availability of recommendations of UPSC could not have been imposed as, as per Government instructions UPSC is not required to be associated in respect of promotions to posts belonging to Group ‘B’. As a matter of fact, even in respect of promotions to posts belonging to Group ‘A’, consultation with UPSC is necessary only if the promotion is based on the principle of selection and not seniority-cum-fitness.

3. On the other hand, the learned counsel of respondents referring to the reply filed on behalf of respondents stated that there is no error apparent on the face of record in the Tribunal’s order dated 17.12.2004 and as such, the same is correct and proper and needs no review.

4. We have considered the rival contentions.

5. A perusal of the record and Tribunal’s order under consideration reveals that the observation relating to the condition of the date of availability of recommendations of UPSC was made on the basis that respondents had made a

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reference to their letter dated 25.2.2003 to the effect that they had sent a proposal to UPSC to fill up three posts including one reserved for physically handicapped. It is undisputed that applicant has sought application of the principle of reservation as a physically handicapped person for promotion to Group 'B' post. DOP&T OM 22011/5/86-Estt.(D) dated 10.4.1989 confirms the correctness of the contentions made on behalf of applicant, i.e., for promotion to Group 'B' posts it is not necessary to consult UPSC at all. Thus, even if the respondents had unwittingly made a reference to UPSC regarding filling up of Group 'B' posts, the condition imposed in the order in question could not have been imposed while allowing the OA. This indeed is found to be a superfluous condition and as such in view of the discussion made above, Tribunal's order dated 17.12.2004 is reviewed to the extent that the following portion from paragraph 7 of the order is deleted:


"7.from the date of availability of recommendations of UPSC."

Paragraph 7 will now read as follows:

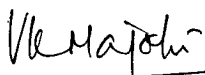
"7. In the light of the facts and circumstances of this case as discussed above, this OA is disposed of with a direction to the respondents to consider applicant's claim for benefit of reservation for physically handicapped persons on the post of Assistant Director (Official Language) – Group 'B', by passing a detailed and speaking order within a period of one month. Till then, applicant shall be allowed to hold the post of Assistant Director (Official Language) on the basis of the present arrangement."

It is also clarified that the time limit of one month will now be applicable from the date of communication of the orders passed in this review application.

6. The review application is allowed in the above terms.


(Shanker Raju)
Member (J)

as/


(V. K. Majotra)
Vice-Chairman (A)
23.3.05