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Court : Central Administrative Tribunal CAT Chandigarh

Decided On : Apr-11-2012

Judge : S.D. Anand, Member (J) & Khushiram, Member(a)

Appeal No. : ORIGINAL APPLICATION NO.1218/HR/2011

Appellant : Bijender Kumar

Respondent : Union of India Through Its Secretary, Ministry of Human Resource Development and Others

Judgement :

(ORAL)

BY HONOURABLE MR. JUSTICE S.D.ANAND, MEMBER (J):-

1. It is common ground, during the course of the hearing, that the applicant was at S. No. 2 in the merit list which came into being on a conjunctive appraisal of various criteria-related facets in the matter of the impugned selection. The availability was only of one post. The selected candidate joined on 22.4.2010 and resigned on 20.9.2010.

2. The learned counsel for the applicant argues that the applicant being a 1973 born, would not be able to enter the public service for the rest of the life time and it

would be very difficult for him to find means for economic sustenance for himself, spouse and his only child, if appointment offer is not made to him.

3. Besides making the above indicated plea, the learned counsel for the applicant states that it is a fit case wherein the applicant should be allowed to enter in public service, being the next best candidate available and the period of currency of the panel being for one year which period was not over by the time the selected candidate opted to resign.

4. Mr. D.R. Sharma, learned counsel appearing on behalf of the Respondents states that the grant of a favourable consideration to the applicant would be violative of the policy instructions which would have cemented the applicant's case only if the candidate at S.No. 1 had not joined the post. He having joined the post, the argument proceeds in continuity, the applicant cannot validly insist upon appointment in the vacancy caused by the resignation of the candidate aforementioned.

5. Public service, till date, continues to attract people aplenty. The selection process, by the very nature of things, is a very time-consuming and tardy affair. In this case too, the selection process concluded in the month of January, 2010. The selected candidate joined duty on 22.4.2010 and resigned on 20.9.2010. We are presently in the year 2012. Concededly, no selection process afresh has come to be initiated or concluded thereafter. There is no indication otherwise that there was anything which impeded the holding of the selection process afresh. The interim order granted by the Bench only ordered that the selection, if any, comes to be made in the meantime, shall be subject to the outcome of the OA. It is not even a grievance on behalf of the respondents that the order aforementioned impeded holding of a selection process afresh.

6. The factual scenario is, thus, very clear. The appointments notice announced the availability of only one post. The applicant herein was at No. 2 in the merit list. The selected candidate joined duty on 22.4.2010 and resigned on 20.9.2010. The instructions-related period of currency of the panel is one year. The selected candidate resigned during the period of currency of the panel. Till date, no new selection process has come to be initiated. The applicant has almost reached the

maximum age for entry into public employment. He is a married man and has raised a family. All these factors impel us to grant a favourable consideration to the plea raised on behalf of the applicant.

7. In the light of the foregoing discussion and the peculiar circumstances noticed in the course of the preceding para, we would allow this OA and direct the Respondents to consider the applicant for appointment against the vacancy caused by the resignation of the selected candidate.

8. There shall be no order as to the costs of the cause in the facts and circumstances of the case.

9. Disposed of accordingly.

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