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Court : Delhi

Decided On : Jan-10-2013

Judge : Pradeep Nandrajog

Appellant : Surinder Singh

Respondent : Uoi and ors.

Judgement :

\$~R-37 * IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of Decision: January 10, 2013 + W.P.(C) 4371/2001 SURINDER SINGH ...Petitioner Represented by: Mr.Sarvesh Bisaria, Advocate. versus UOI & ORS. Respondents Represented by: Mr.Ravinder Agarwal and Mr.Amit Yadav, Advocates. CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MS. JUSTICE VEENA BIRBAL PRADEEP NANDRAJOG, J.

1. O.A. No. 1257/1998 filed by the writ petitioner has been dismissed by the Central Administrative Tribunal as per the impugned order dated March 09, 2001.
2. The Recruitment Rule for the post of Chief Enforcement Officer has a feeder cadre consisting of:- (i) Enforcement Officer; (ii) Office Superintendent.
3. The Recruitment Rule does not provide for any quota; and this would mean that an integrated/combined seniority list of Enforcement Officers and Office Superintendents is prepared by the Department from which eligible candidates are considered for promotion.

4. In the Original Application, vide para 4(c), after pleading that the post of Chief Enforcement Officer is a promotion post and two posts constituting the feeder cadre as afore-noted, it is pleaded that Rule in question, being silent as regards the ratio in which Enforcement Officers and Office Superintendents would be promoted is unconstitutional inasmuch as it leaves an unguided discretion in the hands of the respondent to consider which candidates to be considered for promotion and which candidates to be overlooked for promotion.

5. At the same time in paragraph 4(f) of the Original Application it is pleaded that the respondents have fixed a ratio for promotion.

6. Vide impugned decision the Tribunal has held that the promotions have been effected from an integrated seniority list and thus the promotions were valid and there was no element of discrimination.

7. It is settled law that where two posts constitute feeder post to a promotional post it is permissible to either fix a quota or have an integrated seniority list.

8. If promotions are made from an integrated seniority list no-body can have a grievance.

9. Faced with the aforesaid learned counsel for the petitioner changes tracks.

10. Learned counsel seeks to urge that the Recruitment Rule in question envisages eligibility with reference to regular service rendered in the grade and therefrom would seek to urge that while integrating the seniority list the respondents were ignoring regular service rendered by Enforcement Officers and Office Superintendents. Learned counsel further urges that benefit of ad-hoc/temporary service rendered by the Enforcement Officers was extended to them and as a result notwithstanding these officers not having regular service in the grade were integrated at a position higher than what was due in the integrated seniority list.

11. But, when questioned where are the pleadings to said fact in the Original Application, learned counsel for the petitioner has no answer. But to be fair to the writ petitioner we find that in paragraph 6 of the writ petition a reference has been

made to said fact and before the Tribunal said fact was pleaded in a reply to an affidavit filed by the respondents when further information was sought by the Tribunal to ascertain what had happened as a matter of fact.

12. It appears to be a case where during arguments at some stage the Tribunal had wanted to know as to how come Assistant Enforcement Officers who were junior to Assistants and Senior Stenographers earned a promotion to the post of Chief Enforcement Officers and it was in said context an additional affidavit was filed by the respondents explaining that Assistant Enforcement Officers earned promotion to the post of Enforcement Officers and Assistants as also Senior Stenographers earned promotion to the post of Superintendent and in said context it was sought to be explained as to how sometimes Assistant Enforcement Officers stole a march by becoming Enforcement Officers or vice-versa. But, we refrain from going into said issue inasmuch as we find that neither before the Tribunal nor before us any integrated seniority list has been challenged with respect to the grievance that whereas those who functioned on ad-hoc basis as Enforcement Officers have their seniority reckoned with effect from date of ad-hoc service rendered and as regards Office Superintendents said benefit is denied.

13. This plea even if it is meritorious would warrant a challenge to the combined seniority list and impleadment of such persons who are likely to be affected by any adverse decision.

14. Accordingly, we dismiss the writ petition but refrain from imposing any costs.
(PRADEEP NANDRAJOG) JUDGE (VEENA BIRBAL) JUDGE JANUARY 10 2013
srb

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