
(2009) 12 AHC CK 0255
In the Allahabad High Court

J.S.Manral

APPELLANT

Vs

Union of India & 3 Others

RESPONDENT

Date of Decision : 22-12-2009

Acts Referred:

Citation : (2009) 12 AHC CK 0255

Hon'ble Judges : Rajiv Sharma, J and Satish Chandra, J

Final Decision : Dismissed

Judgement

Dr. Satish Chandra, J.

The present petition has been filed by the petitioner to challenge the validity of the judgment and order dated 4.11.2009 passed by the Central Administrative Tribunal, Lucknow dismissing the Original Application No. 94 of 2009 filed by the petitioner.

1. Sri Anuj Kudesia, assisted by Sri V.K.Agrawal, submits that the petitioner was originally appointed as Assistant in the Central Secretariat Service. He joined on deputation in Central Administrative Tribunal, Lucknow as Section Officer on 11.10.2000. He went on deputation in D.R.T., Lucknow and was absorbed as Section Officer on 4.6.2004. On 15.10.2007, he joined as Recovery Officer at D.R.T., Patna on deputation basis. In response to an advertisement dated 23.5.2008, the appellant applied for the appointment to the post of Recovery Officer in D.R.T., Lucknow. He was interviewed along with other candidates but was not selected. He submitted that to fill up the post of Recovery Officer in D.R.T., there are a composite recruitment rules by promotion/deputation which runs as under:

2. By Promotion/deputation Deputation:

(I) Officers holding analogous posts in the Central, State Government or Judicial and Revenue Services, or having eight years" regular service as Section Officer or equivalent post in the sale of Rs. 6,50010,500; or

(II)Scale IV Officers of the public sector bank holding analogous post: or

(III)Scale III Officers of public sector banks with five years" service; or

(IV)Officers in the public sector banks who have already held that post of Recovery Officer or equivalent post in a tribunal for a period of three years.

Desirable:

Preference will be given to persons having legal experience or experience in judicial or recovery matters.

Note 1: Period of deputation including period of deputation in excadre post held immediately preceding the appointment in the same or any other Organization/ Department of Central Government should ordinarily not exceed three years.

(The maximum age limit for deputation shall be 56 years on the last date of receipt of application.)

Note 2: Departmental Section Officers with eight years" regular service shall also be considered along with outsiders and in case the Departmental candidate is selected, the post will be treated to have been filled up by promotion.

3. He submits that when the person on promotional post is available from the feeder grade, then there was no need to have another person from outside on deputation basis. For this purpose, he has relied on the ratio laid down in the case of State of Tripura v. K.K.Roy (2004) 9 Supreme Court Cases 65 where it was observed that "Promotion is thus a normal incidence of service." He further submits that the petitioner has already been found eligible and suitable for the post of Recovery Officer by D.P.C. as he was working on deputation basis at Patna. Denying the promotion to the petitioner is a violation of Articles 14 and 16 of the Constitution. Lastly, he made a request that the impugned order may kindly be set aside.

4. On the other hand, Sri Ashok Nigam, Assistant Solicitor General of India, submits that the eligibility of the petitioner was not doubted. He was invited for interview for the post of Recovery Officer in D.R.T., Lucknow. He further submits that the petitioner was selected on the post of Section Officer on promotion from the feeder grade, so in reality, there is no stagnation to the petitioner. The candidature of the petitioner has not been rejected on the eligibility ground. The petitioner has not challenged the recruitment rules. If a candidate thought that the selection process was not in accordance with rules, he could have challenged the advertisement without participating in the selection process. In the instant case, the petitioner has participated in the selection process. The selection committee on merit has selected the candidate namely Sri Narayanan Sundaram on deputation basis. He further submits that since the Recovery Officer has been given substantial quasijudicial power for execution of the decree of the Tribunals involving high value amount which is essential, that persons holding such sensitive posts should not be allowed to work on the same post for the years

together. Therefore, as a matter of policy, the posts of recovery officer in all the D.R.Ts. are being filled up only on deputation basis. Lastly, he justified the Tribunal's order.

5. We heard parties' counsel at length and gone through the material available on record from which it appears that the petitioner was promoted to the post of Section Officer in D.R.T., so there is no question of stagnation of the petitioner. The petitioner is already working as Recovery Officer on deputation basis at Patna. But in Lucknow the competition was tough and 34 candidates were called for interview and 8 candidates were absent. So, only 26 candidates appeared in interview.

6. D.R.T. is a new organization and the posts of recovery officer are filled up by way of deputation only as a matter of policy. The petitioner being eligible was called for interview and he has participated in the selection process. There were two posts of Recovery Officers in D.R.T., Lucknow but only one post was filled up by way of deputation basis.

7. The original record of selection committee was also produced before the Court from which it appears that 34 candidates were called for interview and only 26 candidates appeared. The petitioner got only 54 marks out of 100 marks in interview. On the other hand, successful candidate Sri Narayanan Sundaram got 73 marks in interview. Thus, the selection was made on merit amongst the candidates available for interview. In the selection list, there are many candidates between the successful candidate and the petitioner. Thus, we are satisfied that the successful candidate was selected on merits. The petitioner is much below in the merit list, hence the petitioner has no right for selection.

8. Since the selection has been decided on merits, we are not inclined to interfere in the selection process. Therefore, the impugned order of the Tribunal is hereby sustained along with the reasons mentioned therein.

9. The writ petition is dismissed being devoid of merits. No order as to costs.