(2019) 05 CAT CK 0024

In the Central Administrative Tribunal

Case No : Original Application No. 1166 Of 2019

K.C. Ghumaria, IRS — APPELLANT

Vs

Union Of India And Ors — RESPONDENT

Date of Decision : 01-05-2019

Acts Referred:

Citation : (2019) 05 CAT CK 0024

Hon'ble Judges : L. Narasimha Reddy, J;Aradhana Johri, J

Bench : Division Bench

Advocate : Satyam Reddy, Ajit Kulshreshtha, Sriruma Sarasani, Ravi Prakash, Aman Malik, Gyanendra Singh

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. The applicant is an IRS officer of 1982 batch. At present he is holding the post of Principal Chief Commissioner of Income Tax. The Govt. initiated steps for selection and appointment of the Members of CBDT. An Office Memorandum dated 04.07.018 was issued indicating that some vacancies in the post of Member CBDT are existing and that steps are being taken for selection and appointment against the vacancies. The essential qualifications for the post were mentioned and the eligible officers were requested to forward their applications. The applicant states that four vacancies were available till the end of 2018 and he too forwarded his application along with other eligible candidates. His grievance is that as against the four available vacancies, only three officers were selected and had the respondents considered the selection against the 4th vacancy also, he would have stood a chance for that.

2. Applicant placed reliance upon a Secretariat Note dated 13.07.2006, and stated that the Selection Committee was required to prepare a panel of 1.5 times the number of the existing vacancies and that the same was not followed. Certain contentions are also urged.

3. We heard Shri Satyam Reddy, Senior Advocate assisted by Shri Ajit Kulshreshtha & Ms. Sriruma Sarasani, on behalf of the applicant and Shri Ravi Prakash, Shri Aman Malik, Shri Gyanendra Singh, on behalf of the respondents, at the admission stage.

4. The learned counsel for the respondents has also made available to us the proceedings of the selection committee.

5. It is not in dispute that the applicant is 4th senior most officer in the hierarchy.The OM dated 4. 07.2018 issued by the respondents reads as under:-

"The undersigned is directed to state that some posts of Members in the Central Board of Direct Tax(CBDT) in the Department of Revenue in the Level 17 of the pay matrix Rs 2,25,000/- are likely to fall vacant in the financial yeaer i.e. 2018-

19. The following categories of officers are eligible for appointment to these posts.

Officers of the Central Government having one year regular service in level 15 in the pay matrix Rs.1,82,200 - Rs.2,24, 400/-."

6. The Memorandum is silent as to the exact number of vacancies. However, it is brought to our notice that by the time the Selection Committee was convened on 16. 09.2018, only three vacancies were available and accordingly selection was confined to those vacancies. From a perusal of the Minutes of the Committee, we find that it was informed about the availability of only three vacancies. Accordingly the selection was made, by taking into account the service particulars of the officers within the zone of consideration. The applicant was one of them.

7. The 4th vacancy has arisen w.e.f. 01.10.2018. It may be true that in the guidelines relied upon by the applicant, it was observed that a panel of 1.5 times the available number of vacancies be prepared. However, it is not known whether the guidelines are still in force or whether any subsequent decision has been taken. Either way, the alleged failure to implement the guidelines, cannot vitiate the proceedings.

8. When the applicant made a representation dated 27. 11.2018 ventilating his grievance, he was issued reply dated 24.12.2018, which reads as under:-

"2. It is informed that the vacancy of Member, CBDT w.e.f. 01.10.2018 vice Shri Arbind Modi during the financial year 2018-19 has been re-circulated vide this Department?s circular dated 04.12.2018, inviting applications upto 03.01.2019. You may apply afresh for the post of Member, CBDT against the said vacancy."

9. By the time the reply was given, the respondents have already initiated steps for selection of candidates against the one post of Member through OM dated 4. 12.2018. The applicant is said to have responded to the same. It is brought to our notice that the Selection Committee met on 03.04.2019, to select candidate for the post notified on 04.12.2018.

10. In this scenario, we do not find any basis to grant any relief in this OA.

11. It is stated that the applicant is attaining the age of superannuation on 30.09.2019. We observe that in the event the applicant being selected and his selection being approved by the ACC, the feasibility of issuing orders before he attains the age of superannuation, be considered.

12. We, therefore, dismiss the OA, but with the above observation. There shall be no order as to costs.

13. Learned standing counsel for the respondents submits that in the proceeding dated 26.04.2019, it was mentioned that he undertook to produce the record and on that, explanation is called from him. We make it clear that it is in the course of hearing that the Bench desired that the relevant proceedings be made available and accordingly the learned counsel was directed to place before us the proceedings.