

(2019) 02 CAT CK 0081

In the Central Administrative Tribunal

Case No : Original Application No. 1481 Of 2016, Miscellaneous Application No. 1224 Of 2017, Miscellaneous Application No. 1225 Of 2017

Surinder Singh

APPELLANT

Vs

Delhi Development Authority

RESPONDENT

Date of Decision : 08-02-2019

Acts Referred:

Citation : (2019) 02 CAT CK 0081

Hon'ble Judges : V. Ajay Kumar, J; Aradhana Johri, J

Bench : Division Bench

Advocate : Madhumita Bhattacharjee, Sandeep, Arun Birbal, Ajay Birbal

Judgement

V. Ajay Kumar, J

1. The applicant, an Assistant Director (Ministerial), filed the OA seeking the following reliefs:-

"(i) The Hon'ble Tribunal may be graciously pleased to call for the original records relating to the present issue;

(ii) The Hon'ble Tribunal may be further pleased to quash and set aside the impugned order, i.e., Order No.F.7(56)2007/PB-I/Pt./953 dated 28/30.04.2015 which is discriminatory and in violation of well settled principles of law;

(iii) The Hon'ble Tribunal may be pleased to further direct the respondent to give effect to the order dated 20th and 22nd October, 2014; and

(iv) Cost of this application be awarded in favour of the applicant".

2. Brief facts of the case are that, in the year 2005, a Limited Departmental Examination (LDE) was conducted by the respondent-Delhi Development Authority (DDA) for the post of Assistant Director (Ministerial). The applicant, who was working as Assistant/Stenographer, also applied and appeared in the said LDE conducted on 24.07.2005 and 31.07.2005 and the results were

declared on 16.01.2006 and the applicant was not qualified and the candidates, who qualified the examination, were appointed as Assistant Directors. The applicant along with 10 others filed W.P. (C) 2795/2007 before the Hon'ble High Court of Delhi seeking a direction to get the Hindi language answer sheets of the petitioners, re-evaluated and in case the petitioners are successful, to direct the respondent-DDA to promote petitioners as Assistant Directors (Ministerial) along with others with all consequential benefits. On the suggestion made by the Hon'ble High Court, the respondent-DDA got the answer sheets of Hindi language of all the candidates re-evaluated by the Professor of Hindi, Jamia Milia Islamia University, Delhi. Even after the said re-evaluation, the result which was declared earlier was not affected. Subsequently, the said writ petition was transferred to this Tribunal as TA No.13/2008 and the same was dismissed as infructuous, by order dated 13.01.2010 as the prayer of the applicant's for re-evaluation was already done by a competent person. Subsequently, the applicant was promoted as Assistant Director (Ministerial). However, the applicant continued to make representations against his non-selection in LDE 2005.

3. The respondents DDA, constituted a Committee to consider the request of the applicant and the said Committee which met on 20th and 22nd of October, 2014, opined that the applicant should be given his due seniority and attendant pay fixation and other benefits on par with others who were selected in LDE 2005. When no further action, for implementation of the said Committee views is taken, the applicant filed OA No.846/2014 seeking a direction to take a final decision on his claims in a time bound manner. This Tribunal disposed of the said OA on 07.01.2015, without going into the merits of the case, by directing the respondent-DDA to pass appropriate orders in pursuance of their decision taken in respect of the applicant's claim. In compliance of the said orders of this Tribunal in OA No. 846/2014 dated 07.01.2015, the respondent-DDA passed the impugned Speaking Order dated 30.04.2015.

4. One Shri O.P. Madan and 4 others filed OA No.3973/2014 seeking a direction to the DDA not to act upon the recommendations of the Committee, made in respect of the claims of Shri Surinder Singh, i.e., the applicant in the instant OA and the 3rd respondent in the said OA No.3973/2014. Since during the pendency of the said OA No.3973/2014, the respondents have passed the impugned speaking order dated 30.04.2015, rejecting the claim of the applicant, this Tribunal has dismissed the OA No.3973/2014, as infructuous, on 04.08.2015. The W.P. (C) No.2406/2016 filed by the applicant against the said order was dismissed as withdrawn by the Hon'ble High Court of Delhi on 21.03.2016. Thereafter, the applicant filed the instant OA.

5. Heard Ms. Madhumita Bhattacharjee with Shri Sandeep, the learned counsel for the applicant and Mr. Arun Birbal with Shri Ajay Birbal, the learned counsel for the respondent and perused the pleadings on record.

6. Ms. Madhumita Bhattacharjee, the learned counsel appearing for the applicant submits that after the Hindi language paper of the applicant as well as of others

was re-evaluated, as per the suggestion of the Hon'ble High Court of Delhi in W.P. (C) No.2795/2007 and after transfer of said writ petition to this Tribunal and dismissal of the consequential TA No.13/2008 as infructuous, the applicant made number of representations seeking re-evaluation of his Hindi language paper once again and in pursuance of the said representations, a Committee was constituted by the DDA, and the said Committee which met on 20th and 22nd of October, 2014, recommended that since the applicant cleared all the technical papers, he should be given his due and seniority, but the respondent-DDA has not given effect to the said recommendations, illegally.

7. The learned counsel strenuously taken our attention to the entire pleadings of the OA and submitted that not giving effect to the recommendations of the Committee dated 20th and 22nd

8. Per contra, Shri Arun Birbal, the learned counsel appearing for the respondents, while not disputing the fact of constitution of a Committee and making certain recommendations on 20th and 22nd October, 2014, in respect of the applicant's seniority, however, submits that the said recommendations were not given effect to and were negated subsequently and, hence, the applicant cannot enforce the said internal correspondence, by invoking the power of judicial review of this Tribunal. He further submits that the issue of qualification of the applicant for promotion to the post of Assistant Director (Ministerial), against LDE of 2005 has attained finality on the dismissal of TA No.13/2008 on 13.01.2010 when the same was dismissed as infructuous. The applicant having not challenged the said order, cannot now seek appointment, seniority in the post of Assistant Director (Ministerial) along with persons who were selected and appointed against LDE 2005.

9. We find force in the submission made by the respondent counsel. Firstly, the claim of the applicant for re-evaluation of his Hindi language papers of the year 2005 and his consequential relief of his promotion to the post of Assistant Director (Ministerial) has attained finality when his TA No.13/2008 was dismissed on 13.01.2010. Secondly, as rightly submitted by the learned counsel for the respondent that the recommendations of an Internal Committee of the respondent-DDA which are in the form of internal notings cannot be enforced in exercise of our power of judicial review, as per the settled principles of law (See Sethi Auto Service Station and Another Vs. Delhi Development Authority and Others, 2009 (1) SCC 180).

10. In the circumstances and for the aforesaid reasons, we do not find any merit in the OA and accordingly, the same is dismissed.

11. Pending MAs, if any, stand disposed of. No costs.