

(2011) 03 DEL CK 0363

In the Delhi High Court

Case No : Writ Petition (C) No. 17534-36 of 2005

Union of India (UOI) and Others

APPELLANT

Vs

Sanjay Kumar and Others

RESPONDENT

Date of Decision : 30-03-2011

Acts Referred:

Citation : (2011) 03 DEL CK 0363

Hon'ble Judges : Veena Birbal, J;Anil Kumar, J

Bench : Division Bench

Advocate : None, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.—The Petitioner Union of India, through Secretary Ministry of Finance and Chairman, Central Board of Direct Taxes and Others have challenged the order dated 03.02.2005 passed by Central Administrative Tribunal, Principal Bench, in O.A. No. 48/2004 titled as "Sanjay Kumar and Ors. v. Union of India and Ors." allowing the Original Application of the Respondents and directing the Petitioners to convene the DPC to consider the case of the Respondents for promotion to the posts of DEO grade B in accordance with rules and instructions and in the event the Respondents found fit, to give all the consequential benefits to them. The Respondents had sought promotion as Data Entry Operators grade B against the vacancies which accrued in 2000 for which the DPC was not held.

2. The Respondents contended that they were appointed as Data Entry Operators, grade A, on regular basis in the year 1995 on different dates and as per Data Entry Operators Recruitment Rules, 1987, they become eligible for promotion to Data Entry Operator Grade B on completion of 5 years of Regular Service in the grade A. The Respondents' plea was that they had completed the five years of service in 2000, however, no DPC was held and they could not be promoted.

3. The Tribunal had held that the Respondents had become eligible on

01.01.2001 and vacancies were available, therefore, they had a right to be considered for promotion and the Petitioners were liable to hold DPC. Even if the new Rules had not been finalized, the Petitioner should have followed the old Rules. The Tribunal also relied upon the decision of the Constitution Bench of Apex Court in the case of Shankarsan Dash Vs. Union of India, holding that the decision not to fill up vacancies had to be a bonafide and for appropriate reasons. The Tribunal did not find any bonafide or appropriate reasons recorded by the Petitioners for not filling up the vacancies in the year 2001 and thus held that not filling up the vacancies was not legally sustainable.

4. No-one is present on behalf of the parties.

5. The Petitioners were also directed to complete the record of the writ petition by filing record of the Tribunal by order dated 17.01.2008. The record of the Tribunal has also not been filed.

6. Consequently, the writ petition is dismissed in default of appearance of the Petitioners and their counsel and for non-prosecution.

7. Interim order dated 09.09.2005 which was made absolute on 20.02.2009 is also vacated.