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CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 477 of 2002

New Delhi, dated this the 1st March 2002

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. SHANKER RAJU, MEMBER (J)

Shri Tara Dutt,
S/o Shri Kamalapati,
R/o 195, ESI Colony, Sector 56,
NOIDA, U.P.

.... Applicant

(By Advocate: Shri Pramod Gupta)

Versus

Union of India through

1. The Secretary,
Ministry of Labour,
Shram Shakti Bhawan,
Rafi Marg,
New Delhi.
2. The Director General,
ESI Headquarters,
Panchdeep Bhawan,
Kotla Road,
New Delhi.
3. The Jt. Director (Rectt.),
ESI Headquarters,
Panchdeep Bhawan,
Kotla Road,
New Delhi.
4. Shri Amar Singh
5. Shri Arun Ponwar
6. Shri Daya Krishan

.... Respondents

ORDER

Mr. S.R. Adige,

Applicant impugns Respondents' order dated 30.8.2001
(Annexure-B) and Memo dated 21.9.2001 (Annexure E) and 7/16.11.2001
(Annexure G) and seeks restoration of order dated 24.8.2001 (Annexure

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A). He seeks a direction to Respondents to promote him as L.D.C. on the basis of the selection held on 27.5.2001.

2. We have heard applicant's counsel Shri Pramod Gupta.

3. Applicant who belonged to general category and is employed as peon had appeared in the Limited Departmental Competitive Examination held on 27.5.2001 for promotion from Grade 'D' to L.D.C. in respondent's organisation. In the result declared on 24.8.2001 he was at the serial No. 7 in the list of candidates who had qualified in the same. However, by subsequent order dated 30.8.2001 a fresh list of successful candidates was published wherein applicant's name did not find mention and certain fresh candidates had been added to the list of successful candidates.

4. Applicant challenged the same in O.A. No. 2229/2001 which was disposed of by order dated 5.9.2001 with a direction to Respondents to dispose of applicant's representation dated 31.8.2001 which he had filed in regard to his non-inclusion in the subsequent list dated 30.8.2001.

5. Thereupon respondents issued the impugned order dated 21.9.2001 stating that a bona fide mistake has occurred in finalizing the results which was rectified and revised results were approved vide order dated 30.8.2001.

6. Thereupon applicant filed O.A. No. 2845/2001 challenging the aforesaid order dated 21.9.2001. That O.A. was disposed of by order dated 17.10.2001 in which it was noted that as relevant details were not available in the impugned order dated 21.9.2001 and it was not a speaking and reasoned order, respondents should pass a further order as to giving details as to the circumstances under which applicant's name did not find mention in the list of selected candidates.

7. Pursuant to the aforesaid directions, Respondents have now issued fresh order dated 7/16.11.2001 (Annexure G) in which it has been pointed

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out that the examination held on 27.5.2001 was for filling up of 10 vacancies including one for SC and three for ST, and in order to qualify in the examination, a candidate was required to secure minimum 33% marks in each of the two papers. It is further stated that while finalizing the results initially, the minimum qualifying marks was taken by mistake as 40% and on this basis applicant and some other candidates had qualified, but subsequently it was noticed that the minimum qualifying marks of 40% for each paper ^{was} applicable from LDC to UDC and from UDC to Assistants, but not from Group 'D' to LDC. It is stated that when this ^{error} ~~error~~ was noticed the results were again worked out taking the minimum qualifying marks for each paper as 33% and on that basis a fresh list of qualifying candidates was prepared, in which applicant's position came to serial number 11. Since there were only six vacancies for general candidates, applicant could not be declared qualified for promotion.

8. In our considered opinion the aforesaid Memo dated 7/16.11.2001 is clear enough and we have no reason to doubt that the qualifying marks in the LDCE are 33%, for each ^{paper} and on that basis applicant who secured 11th position, could not be appointed against any of the six general vacancies.

9. In the result the O.A. warrants no interference and is dismissed in limine.

S. Raju
(Shanker Raju)
Member (J)

(S.R. Adige)
Vice Chairman (A)

karthik