

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1242/2001

Hon'ble Shri V.K.Majotra, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 26th day of April, 2002

(By Advocate: Shri S.C. Luthra)

V_S

1. Union of India through
The Secretary
Ministry of Human Resources Development
(Department of Education)
Shastri Bhawan
New Delhi - 110 001.
2. Dr. Pushplata Taneja
Director
Central Hindi Directorate,
West Block No.7, R.K.Puram
New Delhi - 110 066.
3. Shri Radhey Shyam Meena
Research Officer
Central Hindi Directorate
West Block No.7
R.K.Puram
New Delhi - 110 066.
(Service to be effected through Respondent No.2)
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Respondents

(By Advocate: Shri A.K.Bhardwaj for Rs.1 and 2)
None for Respondent No.3

ORDER

By Shanker Raju, M(J):

Applicant, who belongs to general category working as a Research Assistant has impugned the promotion of Respondent No.3, Shri Radhey Shyam Meena on the post of Research Officer in the pay scale of Rs.7500-12000 by an order passed on 3.4.2001 and has also sought his promotion as Research Officer.

2. Learned counsel for applicant contended that having joined on 10.9.1991, Respondent No.3 is junior to him in the post of Research Assistant. Seniority list issued on 23.3.1999 confirms the same. According to him 20 point roster was in operation but on operation of the ratio of R.K.Sabharwal Vs. State of Punjab, 1995(2) SCC 745, the reserved quota of SC and ST has to be worked in relation to the number of posts. In pursuance thereof, DoPT issued OM dated 2.7.1997, 40 point roster has been replaced by post-based roster. According to him, the cadre strength of the Research Officer is 21 and 19 personnels have already been promoted before 3.4.2001. Applicant contended that out of strength of 21 posts promotion to the SC candidate in excess of their quota, as five posts are held by SC and one SC was also promoted in exchange of ST candidate whereas the quota as per the rules for SC should not exceed three in number. According to the applicant, the post at Sl. No.11 of the roster is already given in exchange of a SC, the next post in the ST quota meant for ST was 14th whereas Respondent No.3 has been promoted at Sl. No.9 which is not in order. Applicant has stated that he has filed OA 1021/97 and on the assurance of the respondent No.2 to work out the roster as per OM dated 2.7.1997, the OA was disposed of on 6.5.1998. It is contended that as per the new post-based roster next post is to be filled by ST candidate, falls at Sl. No.28 and not at Sl. No.20 and the applicant has been deprived of his right for consideration on the assumption that the post is reserved for ST candidate which amounts to discrimination under Articles 14 and 16 of the Constitution of India.

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3. On the other hand, learned counsel for respondents contended that the plotting of the incumbents was to be done in terms of the DoPT's OM dated 3.7.1997 on the basis of the post-based roster. It is also submitted that five posts out of the sanctioned strength of 21 posts are held by SC candidates and there was no representation of ST candidate in the cadre, the exchange of SC to ST was done in 1995 on the basis of vacancy based roster. With the introduction of the post based roster the past action had lost its relevance and having found that SC candidates are in excess, without any representation of the ST, the same shall be adjusted in future recruitment.

4. Further placing reliance to DoPT's OM dated 2.7.1997, it is contended that before initial operation of the roster, the actual representation of the incumbents belonging to different categories is to be determined and in this process, it is incumbent to adjust excess shortages. Accordingly they have stated that their earlier appointment were indicated through corresponding remarks against each point of the roster. In this background, it is stated that as the representation of the ST candidate was not there, Respondent No.3 was promoted. According to him the general points, which are occupied by SC candidates have been filled by ST candidates and not by the general category candidates. As per the post based roster it is necessary to bring representation of each

category to its prescribed percentage. In this manner, the ST point was utilised by promotion to Respondent No.3 herein.

5. We have carefully considered the rival contentions of both the parties and also perused the material on record. No doubt before 2.7.1997 vacancy post roster was adopted but with the introduction of the post based roster and as per the guide-lines of the Government of India vide OM dated 2.7.1997 before initial operation of the roster it has to be ascertained that each category has its representation to its prescribed percentage. In this view of the matter, as there was no representation of ST candidate, Respondent No.3 was promoted. Respondents have acted in accordance with rules and guide-lines on the subject by restarting the roster from the earliest appointment and correspondingly made marks against each point in the roster with explanatory notes. Whenever the excess representation had appeared, the same has been indicated by the marks utilised by a SC candidate. We find from the roster that before post based roster one Shri Kuldeep Kaur who belongs to SC was promoted against ST point but subsequent upon operation of the post based roster, the category of the post yearmarked has been indicated against the roster point and against with the remarks have been made. The promotion of Respondent No.3 has brought in the representation of the ST category to its prescribed percentage.

6. Shri B.R.Prasad has been promoted against ST quota before introduction of post based roster which requires no fresh noting thereafter the fresh noting is to be done as per the post based roster and treated as fresh recruitment. In our considered view, the promotion of Respondent No.3 is in accordance with OM dated 2.7.1997 and the applicant shall be promoted as per his slot in the roster.

7. We find no legal infirmity in the action of the respondents, the OA is bereft of merit and it is accordingly dismissed. No costs.

S.Raju
(Shanker Raju)
Member(J)

V.K.Majotra
(V.K.Majotra)
Member(A)

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