

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1928/2001  
M.A.NO.1614/2001

Tuesday, this the 9th day of April, 2002

Hon'ble Shri Justice Ashok Agarwal, Chairman  
Hon'ble Shri S.A.T. Rizvi, Member (A)

1. Shri Vinesh Daya Ram  
S/O Shri Daya Ram M. Meshram  
R/O G-164, Sector-56,  
NOIDA-201301
2. Mrs. Indrani Kumari  
W/O Sh. Hemant Kumar  
R/O Qtr.No.5, Type-II  
P & T Colony, Pusa Road  
Behind Telephone Exchange  
Karol Bagh,  
New Delhi-5

Workig as Lab. Technicians  
ESI Hospital

..Applicants

(By Advocates: Shri M.K.Gupta & Shri Pankaj Kumar)

Versus

1. Employee State Insurance Corporation  
through its Director General  
Panchdeep Bhawan, Kotla Marg,  
New Delhi-1
2. The Medical Superintendent  
ESI Hospital  
Basai Dara Pur, Ring Road  
New Delhi-15
3. The Secretary,  
Department of Personnel & Training  
Min. of Personnel, Public Grievances  
and Pensions  
North Block  
New Delhi-1.

..Respondents

(By Advocate: Shri Yakesh Anand)

O R D E R (ORAL)

Hon'ble Shri S.A.T. Rizvi. M (A):

MA-1614/2001 for joining together in a single  
application is granted.

2. Twelve posts of Senior Lab Technician (SLT) came  
into existence in 1994 when, on 8.8.1994, six additional

(2)

(16)

posts of that rank were created by the respondents. The applicants in the present OA joined as Lab Technicians (LTs) on 16.7.1990 and 20.7.1990 respectively. In accordance with the relevant recruitment rules, they became eligible for promotion to the post of SLT after completion of five years' of service from the date of appointment as LT. However, despite having completed five years of regular service as LTs, the applicants herein were promoted to the post of SLT on ad-hoc basis vide respondents' Office Order dated 26.8.1995 (A-5). Thereafter, both of them were reverted to the post of LT by respondents' order dated 20.12.1999 (A-8). By another order passed on the same date (A-7), the respondents promoted two general category candidates, namely, Alice Thomas and Mary Sebastian from the post of LT to the post of SLT. Besides, ten others, who have been working as ad-hoc SLTs, were regularised by the same order. The list contained the name of one Shri Jagdish Chander, a SC candidate who has been so regularised. The post based reservation policy having come into force on 2.7.1997, the respondents were bound, according to the learned counsel appearing on behalf of the applicant, to consider the claims of eligible SC and ST community candidates while resorting<sup>to</sup> promotion to the post of SLT. According to him, out of 12 posts in the rank of SLT, by following the said reservation policy, two SC and one ST community candidates should have found place in the list contained in the Office Order dated 20.12.1999 (A-8). Both the applicants herein<sup>who happen to be SCs &</sup> have completed more than five years of regular service as LTs when the DPC in question was held on 15.12.1999. Non-consideration of their claim is,

2/

(3)

according to him, wholly inconsistent with the policy of post based reservation laid down in July, 1997. The applicants herein are also aggrieved by the promotion of one Shri Ram Kishor Kerkatta <sup>↓ (ST candidate)</sup> made vide respondents' Office Order dated 15.6.2001 (A-1) even though the said Shri Kerkatta had joined as LT later than the applicants and has also been shown as junior to the applicants in the seniority list dated 8.6.1998 placed at A-14.

3. Based on the aforesaid facts and circumstances, the applicants herein challenge orders dated 15.6.2001 (A-1) as also the order dated 20.12.1999 (A-8) together with the communications dated 11/12.2.2000 and 25/26.5.2000 placed at pages 31 and 34-A of the paper book. By the Memo dated 11/12.2.2000 placed at page 32 of the paper book, one of the applicants, namely, Smt. Indrani Kumari has been informed that she could not be considered for promotion in view of the fact that the said Shri Jagdish Chander, also a SC community candidate, was found to be senior to her. The applicants' case is that irrespective of the manner and by whomsoever the posts created in 1994 and in previous years have been filled up, after the post based reservation policy came into force from July, 1997, the applicants' claim on the basis of the policy of reservation should have been properly and fairly considered. Had this been done, according to him, both the applicants could find place in the list of promoted/regularised candidates contained in Office Order dated 20.12.1999 (A-8).

4. The learned counsel appearing on behalf of the ~~respondents~~ <sup>2 applicants</sup> has lastly submitted that the various orders

passed by the respondents and which are under challenge in this OA stand vitiated mainly on the ground that the policy of post based reservation laid down in July, 1997 has not been properly and fairly implemented.

5. We have considered the submissions made by the learned counsel on either side and find that in the peculiar circumstances of this case, the OA can be disposed of with the following directions:


6. The respondents will determine the number of posts to be reserved for SC and ST community candidates in accordance with the post based reservation policy of July, 1997. Having arrived at the number of posts to be so reserved, the respondents will proceed to devise ways and means to ensure that the aforesaid policy is implemented in letter and spirit. Purely on facts, we find that only two, out of 12 posts in the rank of SLT, stand filled up by reserved category candidates. The persons concerned are Shri Jagdish Chander, who is a SC community candidate (A-7) and ~~Shri Ram Kishor Kerkatta~~ Shri Ram Kishor Kerkatta, who is a ST community candidate and who has been promoted after reverting one Mary Sabastian (A-1) earlier promoted by Office Order dated 20.12.1999 (A-7). Two posts having thus been filled by reserved category candidates, one post is still left in accordance with the policy of reservation to be filled by a SC/ST candidate. The respondents should accordingly proceed to consider the claim of the applicants herein for promotion to the post of SLT in accordance with the said policy. While doing so, they should give notice to Shri Ram

13

(5)

Kishor Kerkatta and also others ~~and others~~ likely to be affected by the promotion of the applicants. A final decision in the matter should be taken by them expeditiously and in any event within a period of three months from the date of receipt of a copy of this order.

7. The present OA is disposed of in the aforestated terms. No costs.

  
(S.A.T. Rizvi)  
Member (A)

  
(Ashok Agarwal)  
Chairman

/sunil/