

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.NO.3325/2001

Thursday, this the 13th day of December, 2001

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

Jagdish Chander Tiwari  
S/O Shri A.R. Tiwari  
R/O Type III/14, Ordnance Factory Estate  
Muradnagar, Distt. Ghaziabad.

..Applicant

(By Advocate: Shri Susheel Kumar Sharma)

Versus

1. Union of India  
through Secretary  
Ministry of Defence  
South Block, New Delhi
2. General Manager  
Ordnance Factory  
Muradnagar-201206  
Distt. Ghaziabad (UP)
3. Chairman  
Ordnance Factory Board  
Ordnance Building  
10-A Shaheed Khudiram Bose Marg  
Calcutta-700 001.

..Respondents

O R D E R (ORAL)

Hon'ble Shri S.A.T. Rizvi:

Heard the learned counsel appearing on behalf of the applicant.

2. In September, 1999, two vacancies in the post of Chargeman Grade II (NT/OTS) were notified. These were to be filled through Limited Departmental Competitive Examination (LDCE). The applicant cleared the LDCE and also appeared at the interview. It is his guess that he had succeeded and had been placed at No.2 in the list of successful candidates. One Shri Naveen Kumar, who had been placed at No.1 in the aforesaid list was finally appointed by way of promotion to the post of Chargeman

(3)

(2)

Grade II (NT/OTS). The applicant was left out and was informally told that the other vacancy was reserved for OBC category. Since the aforesaid earliest notification did not indicate any reservation in favour of the OBC, the applicant made a representation in the matter on 2.5.2001. This has not been replied to by the respondents. In due course, the applicant was informed that since no OBC candidate had succeeded in the aforesaid LDCE, the aforesaid second post would stand transferred to the next year. Another notification was issued in respect of vacancies for 2000 on 25.8.2000 (copy placed on record). Three vacancies were notified indicating therein that one of the vacancies was reserved for OBC category. The applicant went through the LDCE once again for the year 2000 in respect of the aforesaid vacancies. He did not succeed. However, based on the LDCE/interview in respect of 2000, three candidates, all belonging to the general category, have been appointed by respondents' letter dated 31.8.2001 supplied to us by the learned counsel for the applicant and taken on record. The learned counsel appearing on behalf of the applicant submits that the promotion/appointment of the 3rd general category candidate on the basis of the LDCE held for 2000 against the post reserved for the OBC category seems to have become possible due to orders passed in the meanwhile by the respondents de-reserving the aforesaid 3rd vacancy/post. He submits that if de-reservation could be made in respect of a vacancy notified in 2000, the second post relating to the year 1999 could as well have been de-reserved to make way for the applicant. 2

(U)

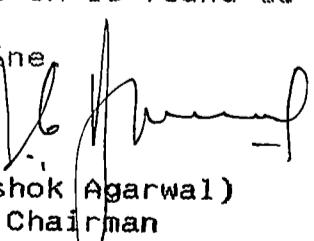
(3)

3. We have considered the submissions made by the learned counsel. From all that has been stated by the learned counsel and from whatever has been mentioned in the OA, it is clear to us that the respondents have filled up all the three vacancies of the year 2000 by general candidates only after getting the 3rd post, initially notified as reserved for the OBC, de-reserved by following the proper procedure. It is also clear to us that the aforesaid 3rd vacancy notified for the year 2000 was the one which was transferred from the year 1999. We have also noted that the applicant had appeared at the LDCE held in the year 2000 in respect of the aforesaid three vacancies but had failed to clear the examination. We do not quite see how the applicant can prefer a claim in respect of a vacancy for 1999 after he has failed to clear the LDCE which he has willingly participated in, <sup>ruiv</sup> respect of the vacancies for the year 2000. In our view, he cannot, after having failed as above, go back and once again try to establish a legal claim over a post for the year 1999. As stated, we are in no doubt that the respondents have proceeded correctly in making appointments in respect of vacancies notified in 1999 and 2000. In any case, on the basis of the information supplied by the learned counsel, and taking into account the facts and the circumstances available in the OA, we cannot find any fault with the decision taken by the respondents.

4. In the light of the foregoing, the OA is found to be devoid of merit and is dismissed in limine.

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

/sunil/

  
(Ashok Agarwal)  
Chairman