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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.126/99

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri Govindan S. Tampi, Member(A)

New Delhi, this the 14th day of December, 2000

Shri Shiv Narayan Singh
s/o late Shri Bacha Ram
r/o 168/11, Railway Colony
Kishanganj
Delhi - 7.

... Applicant

(By Shri V.S.R.Krishna, Advocate)

Vs.

1. Govt. of NCT of Delhi
through Chief Secretary
5, Shamnath Marg
Delhi.

2. Director
Directorate of Social Welfare
Canning Lane
Kasturba Gandhi Marg
New Delhi.

... Respondents

(By Shri Rajinder Pandita, Advocate)

O R D E R (Oral)

Justice V. Rajagopala Reddy:

The applicant, who belongs to Scheduled Caste community, is a post graduate in the field of Social Welfare. He was one of the candidates sponsored by the Employment Exchange for appointment to the posts of Welfare Officer Gr.II. He was called for the interview on 8/9-1-1997. The Selection Board prepared a select list of the candidates who were declared successful in the interview. Six posts were filled up. Out of six, four posts belong to general category and two posts to Scheduled Caste category.

2. The grievance of the applicant is, ~~as~~
^{as} ~~though~~ there are vacancies available, ^{and} the applicant being one of the empanelled candidates, he should have been appointed, instead the respondents were taking

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steps for fresh recruitment by calling names from the Employment Exchange. The present OA is therefore filed directing the respondents to operate the panel prepared in the selection made on 7.1.1997.

3. The respondents have raised the preliminary objection as to limitation. We do not find any merit in the objection. The applicant filed an MA to condone the delay, wherein he stated that he filed a representation on 9.5.1997 and having waited for six months upto 9.11.1997, he filed OA within the period of limitation but only after the delay of two months. The delay, in our view, appears to be unintentional. It cannot be said to be unreasonable. We therefore condone the delay of two months. MA is accordingly allowed.

4. According to the respondents, interviews were held for six vacancies, four general and two reserved and a panel of seven candidates was prepared. The respondents accordingly filled up four general and two of Scheduled Caste category. As the panel was exhausted and as 43 posts of Welfare Officers have been revived w.e.f. 16.7.1997, the respondents have now taken steps for filling the posts by a fresh recruitment.

5. We have given careful consideration to the submissions. The respondents produced the records and the same were perused. A perusal of the minutes of the meeting held on 8.1.1997 and 9.1.1997 shows that six names have been recommended for appointment against the four general and two Scheduled Caste

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category. The Selection Board further recommended a panel of five names for future vacancies out of the general category and two for Scheduled Caste category. The applicant, Shri Shiv Narayan Singh, was one of the candidates recommended for future vacancies against the Scheduled Caste category. It is therefore clear that apart from the filling up six posts which arose on the date of selection, the Selection Board also recommended certain names for filling the future vacancies in which the applicant was one of the Scheduled Caste candidates. As it is stated that in the reply that 43 vacancies arose on 16.7.1997, that is hardly six months after the selection was made, we find that it is incumbent upon the respondents to have considered the applicant in one of the posts out of the 43 posts against reserved category.

6. It is however unfortunate that the respondents had not made clear breast of the facts regarding the future vacancies. It appears that deliberately this fact that the applicant was empanelled in the future vacancies, was suppressed by the deponent in the reply affidavit. The learned counsel for the applicant relies upon Shri Prem Prakash and Others Vs. Union of India & Others, ATR 1984 SC 1831, wherein the Supreme Court held as under:

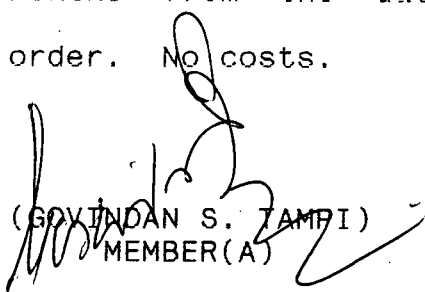
"It is clear from this notification that if selected candidates are available from the previous list there should either be no further recruitment until those candidates are absorbed or in the alternative vacancies which are declared for the subsequent years should take into account the number of persons who are already in the list of selected candidates who are still awaiting appointment. The notification further shows that there should be no limit on the period of validity of the list of selected candidates prepared to the extent of declared vacancies. Once a person is declared successful according to the merit list of selected candidates the appointing authority has the responsibility to appoint

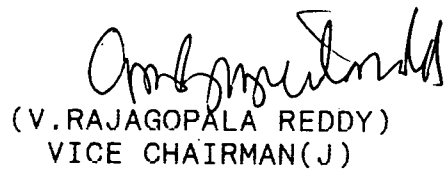
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him even if the number of vacancies undergoes a change after his name was included in the list of selected candidates."

7. The decision in Smt. Sabnam Bibi & Ors. Vs. Union of India & Others, 2000(3) Administrative Total Judgements, Page 481, cited by the learned counsel for the respondents, will not assist him as that is a case where the merit list of 166 candidates was prepared and the applicants did not come with the declared number of vacancies. It was further held the applicant could not claim any appointment nor challenge further recruitment process. It is not shown that a list was prepared for future vacancies also. In the present case, as the applicant was empanelled for future vacancies also, his case should have been considered for the vacancies arose in July, 1997.

8. In view of the foregoing, the OA succeeds and is accordingly allowed. The respondents are directed to consider the case of the applicant for one of the 43 vacancies that arose in July, 1997 for the post of Welfare Officer Gr.II within a period of three months from the date of receipt of a copy of this order. No costs.


(GOVINDAN S. JAMPRI)
MEMBER(A)


(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

/RAO/