

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. 2616/1999

Date of Decision: 14.3.2001

(Signature)

Shri C.R. Chahliya: Applicants.

(By: Shri K.P. Dohare Advocate)

Versus

Union of India : Respondents

(By : Shri K.R. Sachdeva)

Corum:

Hon'ble Shri Justice Ashok Agarwal, Chairman.
Hon'ble Shri Govindan S. Tampi, Member (A)

1. To be referred to the Reporter or note ? YES/NO
2. Whether it needs to be circulated to other Benches of the Tribunal ? YES/NO

(GOVINDAN S. TAMPI)
MEMBER (A)

Patwal/

CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

O.A. NO. 2616/1999

New Delhi this 14th March 2001.

(15)

Hon'ble Mr. Justice Ashok Agarwal, Chairman.
Hon'ble Mr. Govindan S. Tampi, Member (A)

C.R. Chahliya,
Junior Engineer
Central Ground Water Board,
N.H. IV Faridabad (Haryana)
r/o Qr No.1219, Type III
N.H.I.V. Faridabad

(By Advocate: Shri K.P. Dohare)

..... Applicant

Versus

Union of India - through:

1. Secretary,
Minstry of Water Resources,
Shram Shakti Bhavan,
New Delhi-110 001.
2. Secretary,
Ministry of Personnel
Public Grievances, and Pension,
Dept. of Personnel & Training,
Govt. of India,
North Block,
New Delhi-110 001..
3. Chairman
Head Quarters Office,
Central Ground Water Board,
N.H. IV,
Faridabad (Haryana).
4. Shri B.B. Dass, -
5. Shri Bala Ram Dahiya,
6. Shri Manish Kumar,
7. Shri Anurag S.E.O.
8. Shri V.N. Rao,
9. Shri U.S. Rao, 

C/o Chairman,
Central Ground Water
Board, N.H.IV
Faridabad (Haryana)

..... Respondents

(By Advocate : Shri K.R. Sachdeva)

ORDER (ORAL)

By Shri Govindan S. Tampi, Member (A):

In this application the following are the main
reliefs sought on behalf of the applicant:-

V

A. ~~To~~ declare the action of the respondents no.1 & 3 for not holding D.P.C. for promotion of the applicant in the post of Senior Technical Asstt. (M) from 23.9.1990 onwards upto 10.2.1995, when 9 reserved vacant posts of Senior Technical Asstt. (M) reserved for SC/ST were available, is illegal, arbitrary and malafide and also against the statutory instructions/rules issued by the Min. of Personnel, Public Grievances & Pension, Deptt. of Personnel & Training, Govt. of India as well as against the constitutional provisions made under Article 14 & 16(4) of the constitution of India.

B. ~~To~~ declare the action of the respondents no.1 & 3 for filling up all the 21 posts of S.T.A. (M) by general candidates and not filling up these posts as per 40 points roster as illegal, arbitrary and malafide and against the constitutional provisions and as enshrined under Article 16(4), 45 etc. of constitution of India.

C. ~~To~~ direct the respondent no.1 to 3 to hold D.P.C. for promotion in the post of Senior Technical Assistants (Mechanical) based on 9 vacant posts of S.T.A.(M) reserved for SC/ST eligible SC/ST Junior Engineers on 29.3.1990 and upto 10.2.1995 and as per Recruitment Rules of 1977 and as per law laid down by their Lordships of the Hon'ble Supreme Court of India in the case of Y.V. Rangaih Vs. J. Srinivasa Rao AIR 1983 SC 852 and promote the applicant in the post of S.T.A.

(M) with all the consequential benefits attached to the post of S.T.A. (M) and make the payment of the same along with arrears of pay and allowances with 18% interest P.W.

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D. ~~to~~ quash order no. 25/24-93-CW(A) (Pt) dated 10.2.1995 for abolishing 20 vacant posts including 9 posts reserved for SC/ST of S.T.A. (M) i.e. 49% of existing posts of S.T.A. (M), being not only illegal, arbitrary and malafide but depriving the rightful claim of the SC/ST eligible Junior Engineer but is also against the direction of Min. of Finance dated 6.1.1992 wherein it is directed that due to economy only 10% posts should cut in the cadre wise.

E. ~~order of the respondents to restore 16 posts of S.T.A. (M) as only out of 41 posts only 4 posts to be abolished and to fill up reserved posts of SC/ST based on recruitment rules of 1977 and as per law laid down by their Lordships of the Hon'ble Supreme Court of India in the case of Y.V. Rangiah Vs. J. Srinivasa Rao AIR 1983 SC 852.~~ ~~to~~ direct the respondents to restore 16 posts of S.T.A. (M) as only out of 41 posts only 4 posts to be abolished and to fill up reserved posts of SC/ST based on recruitment rules of 1977 and as per law laid down by their Lordships of the Hon'ble Supreme Court of India in the case of Y.V. Rangiah Vs. J. Srinivasa Rao AIR 1983 SC 852. *Abd*

F. ~~to~~ quash OM no. 4-3458/85-Engg. Vol.11-12 dated 9.2.1998, being illegal, arbitrary and malafide and based on amended Rule of 1997 while the posts fell vacant during 1995-96 as such Recruitment Rules of 1977 should have been made applicable. Beside while filling up these posts the law laid

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down by their Lordships of the Hon'ble Supreme Court of India in the case of R.K. Sabharwal Vs. State of Punjab & Ors. was not followed.

2. Heard the counsel for the applicant as well the respondents. Shri K P Dohare, learned counsel for the applicant re-iterated at length the points made in the application. He says that the applicant who joined as Junior Engineer in Central Ground Water Board under the Ministry of Water Resources, on completion of 5 years of service became eligible to be considered for promotion to the next grade of Senior Technical Assistant. However he did not get his dues as the respondents had not held the meetings of Departmental Promotion Committee in time, in spite of his making repeated representations. In the meanwhile, following a policy decision of the Government 20 out of 41 posts of Sr. Technical Assistants in the organisation stood abolished from 10.2.95. If the DPC had been held in terms of DOPTs expected in terms of DOPT's instructions on year to year basis, he would have got the benefit. He says that abolition of 20 posts has hurt his cause in that all the 21 persons who were already working in the organisation belonged to General Category, while the 20 posts which stood abolished included 9 posts meant for SC category to which he belonged. He further states that the cut of 20 posts amounted to nearly 50% while the policy itself prescribed the cut of only 10%. The manner in which the cut has been effect was to hurt the chances of SC candidates like the applicant and it has been deliberate. In this connection, he has also made representations to the Department and to the National Commission for SC/ST. The effect of the abolition of the posts 20 posts had not

come to his knowledge till he was informed in 1998 and only thereafter he has pursued his efforts. He says in as much as he approached this Tribunal soon after he came to know of the cut in strength and abolition of ~~post~~ ^{post} ~~vacancies~~ he has moved the Tribunal. Therefore his case should not be considered as being hit by limitation but dealt with on merits and he should be rendered justice by holding DPC from the earlier periods and granting him promotion from due dates as indicated by him with full consequential benefits like arrears of pay and allowances for the whole period. He also referred to a few judgements which in his view covered his case both on the aspects of reservation policy and limitation e.g. S.S. Bharnale Vs Union of India & Others (SLJ.1997 (i) SC 14), Y.P. Rajaiah Vs I Srinivasa Rao (AIR 1983 SC 852), SC/ST Officers Welfare Council Vs State of UP (AIR 1997 SC 1451), and Jai Singh Vs. Lt. Governor Delhi & Others (2000 (3) ATJ-Principal Bench CAT 299).

3. Strongly contesting, the above pleas, Shri K R Sachdeva, learned counsel for the Respondents ~~stated~~ ^{stated} that the respondents had not acted in any manner discriminatory towards any categories of persons whether they belonged to reserved category or otherwise. The abolition of 10% posts was a policy decision taken by the Government in principle in 1992 but the same was given effect to finally on 10.2.95 with the issue of specific orders for the purpose. As against a total of 5323 posts in the organisation 532 posts came to be abolished. This included 20 posts of Sr. Technical Asstts. as well. The practice followed was to abolish posts lying vacant and unfilled for considerably long periods. The posts of Sr. TAs belonged to ~~this~~ category and hence their

abolition. This is also evident from Ministry letter F No. 25/18/90-FD dated 23.8.93, directing that ^{no} posts lying vacant for more than one year be filled up, except with prior concurrence of the Finance Division. Answering the plea made by the applicant that the directions about abolishing of posts which were lying vacant for one year should not come in the way of filling up the posts of SC, as mentioned in Ministry of Finance OM dated 6.4.94, Shri Sachdeva pointed out that when the policy adopted by the Government for cutting down across the board 10% of posts that policy will have to be implemented in the most appropriate manner and that is what has been done in this case. The applicant has come to this Tribunal at much later stage and his plea that he was not aware of the abolition of posts and he came to know only in 1997 is totally wrong. The applicant has chosen to plead his case before the National Commission for SC/STs and D.O.P.T., instead of approaching the ~~respondent~~ well in time. Still the ~~respondent~~ have replied to the SC/ST Commission indicating the correct position in respect of the abolition of posts and that the applicant had in fact been considered for the post of Sr. T.A. but that a Senior person V.R. Dahiya was recommended and appointed for the post. There was no discrimination against the applicant. In the above circumstances, nothing further remained to be done by the Department who have all the while acted correctly, pleads Shri Sachdeva. The application therefore deserved to be dismissed, in his plea.

4. We have carefully deliberated upon the rival contentions. The first objection raised by the respondents relates to limitation. Prima facie it would appear that

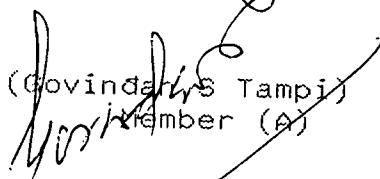
the fact of abolition of posts had come to the knowledge of the applicant well in time but he had come to this Tribunal at a much later stage. However, as the applicant belongs to the reserved category and has moved the Commission for SC/ST with regard to the issue of the reservation as well as the abolition of posts, we are taking up the case on merits as a special case. It is seen that having joined as Jr. Engineer in 1985, he had become eligible for being considered for the post of Sr. Technical Asstt. in 1990. We find from the records placed before us that his case was indeed placed before and considered by the DPC but the person who got recommended was another SC candidate, senior to the applicant. He cannot therefore have any complaint thereon. Thereafter, as implementation of the abolition of posts in terms of the Govt.'s policy was taken up, ~~No~~ selection was done, and correctly so. The abolition has come in the way of the applicant's getting promotion to the grade of Sr. T.A. But it had affected officers similarly placed from other categories as well. Applicant has not been discriminated against, in any manner, as alleged by ~~this~~ ^{him}. Therefore his pleas that the respondents have acted incorrectly to his prejudice does not merit endorsement. Any way it is also found that the applicant has already been granted the benefit of ACP scheme, as per eligibility and the said action of the respondents have correctly taken care of the applicant's interest. Nothing further remains to be done and no further relief is due to him. We also observe, in the facts and circumstances of the case, the decisions cited by the applicant do not come to his ~~help~~ ^{help} ~~aid~~.

..... by the learned counsel

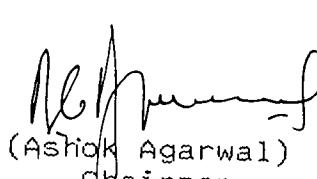
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5. The application, in the above circumstances, is found to be devoid of any merits and is accordingly dismissed.

No costs.


(Govindaraj S Tampi)
Member (A)

Patwal/


(Ashok Agarwal)
Chairman