

O.A. No. 367/99

199

T.A.No.

DATE OF DECISION 1-10-99

Shiv Kumar

....Petitioner

Ashok Kashyap

....Advocate for the
Petitioner(s)

VERSUS

Govt.of NCT of Delhi
and ors.

....Respondent

Sh.Vijay Pandita


....Advocate for the
Respondents.

CORAM

The Hon'ble Smt.Lakshmi Swaminathan, Member (J)

The Hon'ble Shri S.P.Biswas, Member(A)

1. To be referred to the Reporter or not? YES

2. Whether it needs to be circulated to other
Benches of the Tribunal? No.
(Smt.Lakshmi Swaminathan)
Member(J)

Central Administrative Tribunal
Principal Bench

O.A. 367/99

New Delhi this the 1st day of October, 1999

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Shri S.P. Biswas, Member(A).

Shri Shiv Kumar,
S/o Shri Baljeet Singh,
R/o Nai Basti, Behind Masjid,
Gali No. 2, Memoorpur, Narela,
Delhi-110040. Applicant.

By Advocate Shri Ashok Kashyap.

Versus

1. Government of National Capital
Territory of Delhi, through
its Chief Secretary,
Secretariat, Rajpur Road,
Delhi.
2. Delhi Subordinate Services
Selection Board, IIIrd Floor,
UTCS Building, Behind Karkardooma
Courts Complex, Vishwas Nagar,
Shahdara, Delhi-110032
through its Chairman Respondents.

By Advocate Shri Vijay Pandita.

ORDER

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant is aggrieved by the action of Respondent 2 - Delhi Subordinate Services Selection Board, in refusing his candidature for the post of Craft Instructor (Fitter) as a Scheduled Caste candidate.

2. The applicant states that he has passed all essential qualifications for the aforesaid post of Fitter. According to him, he had got himself registered in the Employment Exchange, Pusa Road on 12.11.1990 under the reserved category of Scheduled Caste. The Employment Exchange had forwarded his name and Respondent No. 2 had called him for the trade test for this post. He had

qualified the trade test and was called for interview on 21.1.1999 but Respondent No. 2 refused to interview him as a Scheduled Caste candidate, on the ground that the Employment Exchange had sponsored him in the general category. This has been denied by the applicant stating that the applicant possesses a certificate issued by the competent authority that he belongs to the Scheduled Caste which he had produced before Respondent No. 2. He was not allowed to appear for the interview, on the ground that his name cannot be considered in Scheduled Caste category because the Employment Exchange had sent his name in the general category. 12

3. Shri Ashok Kashyap, learned counsel for the applicant has submitted that since the applicant had been registered with the Employment Exchange in the Scheduled Caste category and was allowed to appear for the trade test and called for interview by letter dated 7.1.1999, the action of Respondent No. 2 in denying him to appear in the interview was illegal. He has also submitted that as the applicant is a Scheduled Caste candidate, he is entitled to avail all the benefits provided to him under the Constitution, including age relaxation of five years.

4. We have seen the reply filed by the respondents and also heard Shri Vijay Pandita, learned counsel. He has also produced the relevant records for our perusal. The respondents have submitted that they had called the names from the Employment Exchange for posts in both general category as well as Scheduled Caste/Scheduled Tribes/Ex-Servicemen categories. According to them, the Employment Exchange had sponsored the names of candidates of all these categories and they had sent the applicant's name

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against the "unreserved category". He was called for trade test and also for interview. Learned counsel has contended that at the time of interview when it came to their knowledge that the applicant was over-aged in general category, they did not allow him to appear in the interview although he had submitted that he belongs to Scheduled Caste category and is entitled for the relaxation of age. They have stated that if he had been sponsored against the Scheduled Caste post, then he would have been eligible for age relaxation, but in the present case they have refused to do so, on the ground that the Employment Exchange had sponsored his name as a general candidate. 13

5. We have considered the pleadings and the submissions made by the learned counsel for the parties. From the records submitted by the respondents, it is seen that the applicant's name is given at Serial No. 42 and there is a stamp on the top of the list "UR" which the learned counsel for the respondents has stated denotes that the applicant as well as the others in the list belong to the unreserved category who were sponsored by the Employment Exchange for the post of Fitter. It is not disputed that the applicant qualified in the trade test for the said post, which apparently was in the general category, that is even without relaxed standards which are available to the reserved category candidates i.e. Scheduled Caste/Scheduled Tribes. The applicant has enclosed a certificate from the Employment Exchange (Page-12) of the Paper Book under the printed heading which reads "Category-Scheduled Castes/Scheduled Tribes/Ex-Servicemen/Physically Handicapped/O.B.C" which shows the date of registration of the applicant on 12.11.1990. This is a printed form and it is relevant to note that the form used by the Employment

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Exchange denotes the categories of Scheduled Castes/Scheduled Tribes, etc. and does not make any reference whatsoever to the general category candidates. Therefore, when the Employment Exchange sent the applicant's name to the respondents as a general category candidate, no fault can be attributed to the applicant. In the circumstances of the case, the respondents cannot ignore the fact that the applicant is, in fact, a person belonging to the Scheduled Caste category. Apart from that, it is seen that the applicant had been sponsored by the Employment Exchange in the unreserved category and he had also qualified for the post of Fitter in the trade test. It is not the case of the respondents that the applicant does not belong to the Scheduled Caste category. In the facts and circumstances of the case, the application is ~~entitled~~^{entitled} to succeed and the applicant should be allowed to appear at the interview for the post of Fitter in the Scheduled Caste category.


6. The Tribunal by interim order dated 17.2.1999 which has been continued from time to time, had directed that any appointment made shall be subject to the result of this O.A. The respondents have admittedly called for names from the Employment Exchange for filling up the posts, both in the unreserved as well as Scheduled Caste/Scheduled Tribe and Ex-Servicemen categories.

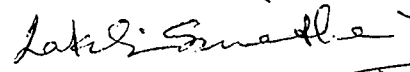
7. In the result, for the reasons given above, the application is allowed. The respondents are directed to grant the applicant age relaxation and call ^{him} for interview for the post of Fitter, against a post reserved for Scheduled Castes. The respondents shall take necessary action within two months from the date of receipt of a copy

JB

of this order. If he is otherwise found fit for appointment to the post of Fitter in the reserved category, he will be entitled to all consequential benefits in accordance with law. However, in the circumstances of the case, he will be entitled to pay and allowances only from the date he assumes charge of the post.

No order as to costs.


(S.P. Biswas)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)

SRD

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