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Central Administrative Tribunal
Principal Bench

O.A. No. 846 of 1999

New Delhi, dated this the 8 September, 2000

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. KULDIP SINGH, MEMBER (J)

Shri Tilak Raj Panwar,
S/o Shri Munshi Ram,
Private Secretary,
Dept. of Electronics,
Government of India,
Electronics Bhawan,
6, CGO Complex,
New Delhi-110003.

.. Applicant

(By Advocate: Shri R.P. Kapoor)

Versus

1. Union of India through
the Secretary,
Dept. of Electronics,
Electronics Niketan,
CGO Complex, New Delhi-110003.
2. Secretary,
Dept. of Electronics,
Electronics Niketan,
6, CGO Complex, New Delhi-110003.
3. Shri P.K. Datta,
Dy. Director,
Dept. of Electronics,
Electronics Niketan,
6, CGO Complex,
New Delhi-110003. .. Respondents

(By Advocate: Shri K.C.D. Gangwani)

ORDER

MR. S.R. ADIGE, VC (A)

Applicant who belongs to SC community seeks promotion as S.O. w.e.f. 10.10.96 with consequential benefits including seniority and arrears of pay.

2. Admittedly respondents held a Limited Departmental Competitive Examination in February,

1996 to prepare a merit list for promotion to the post of S.O. for the recruitment year 1995-96 (1.7.95 to 30.6.96). Respondents state that at the time of holding the Limited Departmental Competitive Examination, the number of vacancies had not been accurately identified, and hence the examination was held in anticipation of vacancies. Five candidates including applicant qualified in Part I of the Examination. At about that time one vacancy was identified in L.D.C.E quota. Respondents state that as per DP&T's instructions, a single vacancy has to be treated as unreserved and filled accordingly, and the reservation if any has to be carried forward to three subsequent recruitment year. Since there were two carry forward points for SC and one for ST, they sought a clarification from DP&T whether the vacancy had to be filled by a reserved category candidate.

3. Meanwhile pending clarification, Part II and Part III components of the examination were conducted. Respondents state that the DPC recommended a panel of two names viz Shri C.K. Joseph a general category candidate and applicant, who belongs to SC community. Based on DP&T's advice that treating the single vacancy as a reserved one would be in violation of the Hon'ble Supreme Court's judgment in Indira Sawhney's case according to which the result of application of the carry forward rule in whatever manner would breach the 50% rule, respondents treated the single vacancy as unreserved and appointed Shri Joseph to the same.

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4. It is not applicant's case that he secured more marks in the Limited Departmental Competitive Examination held in February, 1996 than Shri Joseph, and the relief prayed for can be granted only if he can successfully establish either that the single vacancy referred to above was required to be reserved for an SC candidate, or that there was more than one vacancy, in which case atleast one vacancy should have reserved for an SC candidate.

5. It is well settled that a single vacancy cannot be reserved, and applicant has not been able to establish to our satisfaction that there was more than one vacancy at the time the Limited Departmental Competitive Examination was held in February, 1996 and atleast one of those vacancies should, therefore, have been reserved for an SC candidate.

6. In the result we find ourselves unable to grant the relief prayed for by applicant. However, before we part with this case we would like to observe that hereafter respondents should adhere scrupulously to the relevant instructions which prescribe that the availability of vacancies should be ascertained as accurately as possible before initiating action to fill them up, instead of initiating action first and then taking steps to identify the vacancies.

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7. With the above observations, this O.A.
is dismissed. No costs.

Kuldeep
(Kuldeep Singh)
Member (J)

Adige,
(S.R. Adige)
Vice Chairman (A)

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