

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

C.P.No. 62/2000
& R.A.No. 64/2000

in

O.A.No. 1464/99

New Delhi: this the 26 day of May, 2000.

HON'BLE MR. S.R. ADIGE VICE CHAIRMAN (A).

HON'BLE MR. KULDIP SINGH MEMBER (3)

Ravi Tej Jassi,
39-A, Masjid Moth,
DDA Quarters, Phase-I,
New Delhi - 48

.....Applicant.

(By Advocate: Shri G.K. Agarwal).

Versus

1. T.R. Prasad (Mr),
Defence Secretary,
South Block, DHQ PO
New Delhi-11

2. Col. N.N. Nayak,
through
Commander,
Technical Group EME,
Delhi Cantt-10

.....Respondents.

(By Advocate: Shri Madhav Panikar)

ORDER

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

This is C.P.No. 62/2000 filed by applicant alleging contumacious non-compliance of the Tribunal's order dated 10.11.99 in OA No. 1464/99 and R.A.No. 64/2000 filed by the respondents in that OA seeking review of that order. Both the C.P. and the RA are being disposed of by this common order.

2. In OA No. 1464/99 applicant R.T. Jassi had sought a direction to respondents to appoint him as LDC pursuant to the special Recruitment drive undertaken by Govt. for SC candidates effective from 1.5.94 with all consequential benefits including backwages, Govt. quarter etc.

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When the case came up for hearing Shri G.K. Agarwal appeared for applicant. None appeared for respondents. However, respondents' reply to the OA was on record in which it was stated that 1 post of LDC reserved for SC candidate was released to them under SRD-3 for being filled through the local Employment Exchange and accordingly names were called for test/interview for filling up the post vide letter dated 14.10.93. Applicant ^{who belonged to S.C. category} ~~Applicant~~ had appeared along with others for the test/interview and the necessary formalities, such as medical fitness, civil verification, verification of caste and educational certificate were also got completed. It was stated that thereupon a proposal was sent to the concerned authority for according approval to applicant's appointment, but applicant could not be appointed to the post till such time ^{as} clear instructions from Govt. to fill up the backlog as vacancies were received on receipt of which the terms and conditions of appointment would be communicated to applicant for his acceptance.

4. As respondents had not stated in their reply what precisely they meant when they stated that they were awaiting clear instructions of Govt., and they themselves had stated that a vacancy had been released under SRD-3 for a SC candidate for the post of LDC, it was held that they could not contend that no vacancy was available.

5. Accordingly the OA was disposed of by order dated 10.11.99 with a direction to respondents to issue appointment offer to applicant as LDC forthwith, specifying therein the terms and conditions on the same line as issued to other newly appointed LDCs within a period of 2 months from the date of receipt of a copy

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of the order.

6. The respondent respondents filed MA No. 2696/99 seeking modification of the aforesaid order dated 10.11.99. After hearing both parties at considerable length, it was held by order dated 17.12.95 that the order dated 10.11.99 did not require any modification on the basis of the contents of the MA, but it would be open to respondents to file an RA if they chose so to do, limitation for which would run from the date of receipt of a copy of the order.

7. Now, while on the one hand applicant has filed C.P. No. 62/2000 alleging contumacious non-compliance of the Tribunal's order dated 10.11.99, respondents have filed R.A. No. 64/2000 seeking review of the aforesaid order dated 10.11.99.

8. In the R.A. it has been contended that there is an apparent ^{error} on the face of the record, in as much as that in the ^{reply} ~~certific~~ affidavit to the O.A. as well as in the M.A. filed by respondents it had been stated that there is a ban imposed by DP&T which is the nodal Ministry and moreover there are candidates who were selected in earlier selections to the applicant who were waiting ^{is} appointment. Respondents state that this ^{is} fortified by the order dated 16.8.95 (Annexure 3) and dated 31.5.99 to emphasise that the ban on recruitment is still in vogue.

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9. We are at a loss to understand how on the one hand respondents launched a special recruitment drive 1993 for recruitment of candidates against reserved vacancies, and when applicant has fairly been selected in accordance with respondents' own rules and instructions, they are declining to issue him appointment on the ground that there is a ban on recruitment and filling up of vacancies. These two positions are clearly contradictory to each other. Filling up of reserved vacancies upto the prescribed percentage is a legal mandate and respondents cannot invoke the aforesaid ban to deny applicant his legitimate right.

10. During hearing respondents' counsel Shri Panikar seemed to suggest that vacancies that were being filled up despite the ban were those arising out of retirements, resignations etc. There is nothing furnished by respondents to indicate that the vacancies against which applicant was selected in SRD 1993 was not one such vacancy. He also stated that there were two or three candidates selected in earlier drives who were also waiting in turn. It will be open to respondents to accommodate those candidates too, because ^{prima facie we have} ~~are fairly~~ ^{no reasons to doubt} ~~certain~~ that sufficient number of vacancies are available to do so.

12. We do not find anything in ^{the} ~~our~~ order dated 10.11.99 which brings it within the scope and ambit of

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Section 22(3)(f) A.T. Act read with Order 47 Rule 1 C.P.C. which warrants review. Under the circumstances R.A. No. 64/2000 is rejected.

13. In the particular facts and circumstances of this case respondents are given six weeks time to implement our order dated 10.11.99.

14. List C.P. No. 62/2000 after six weeks on 7.7.2000.

Kuldip Singh
(Kuldip Singh)
Member (J)

/GK/

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

7/7/2000

cl 62/2000 in
OA 1464/99.

cl dropped by a above Bench
Order on separate sheet.

Bu
Rk
Co-cl