

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A.No: 823 /1998

Date of Decision: 16-9-1998

Shri Niranjana Kumar

APPLICANT

(By Advocate Shri M. K. Gupta

versus

Union of India & Ors.

RESPONDENTS

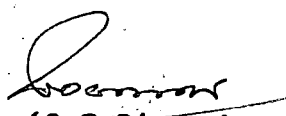
(By Advocate Shri Gajendra Giri

CORAM:

THE HON'BLE SHRI

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?


(S.P. Biswas)
Member(A)

Cases referred:

1. Indra Sawhney V. UOI JT 1992(6) SC 273
2. Hamsaveni & Ors. V. State of Tamil Nadu (1994) 6 SCC 51

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.823/1998

New Delhi, this 16th day of September, 1998

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

Shri Niranjana Kumar
s/o Shri Chote Lal
F-539, JJ Colony, Inderpuri
New Delhi .. Applicant

(By Shri M.K. Gupta, Advocate)

versus

Union of India, through
Secretary
Department of Expenditure
M/Finance, Lok Nayak Bhavan
New Delhi .. Respondent

(By Advocate Shri Gajendra Giri)

ORDER(oral)

The issue that falls for determination in this OA lies in a narrow compass. When a system of reservation for a new community of weaker sections of people is introduced, should the entitlement of benefits thereof be decided by the Government itself or its own after informing the concerned employees or the employees themselves are required to approach the department alongwith necessary documents on the basis of which such reservation benefits could be claimed?

2. Applicant, initially started working as casual labour under the respondent-department from 1984. He obtained temporary status on 1.9.93 and was subsequently regularised against a Group-D post by A-6 order dated 3.9.97. Regularisation took place on the strength of the benefits the applicant was given because of belonging to community categorised

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as Other Backward Class (OBC for short). Applicant is aggrieved by A-3 order dated 24.6.96 by which four similarly placed junior employees, working on temporary basis, were categorised as belonging to OBC communities and on that strength they were regularised as Group-D staff from 21.6.96. Whereas the applicant has been regularised only from 3.9.97, though claims to belong to OBC. ⑥

3. Shri M.K. Gupta, learned counsel for applicant argued that the four officials at A-3 have stolen a march over the applicant in the matter of seniority on the basis of belonging to OBC because the applicant was not aware that such facilities of reservation were available for those belonging to OBC. Applicant for the first time came to know about it when he noticed A-2 seniority list dated 3.2.97, wherein he has been shown as general candidate but the other four officials though originally shown in general category but by a correction in hand later on has been shown as having belonged to OBC. He would also contend that applicant was never informed of the privileges to which ^{an} OBC candidate is eligible as per notification in R-1 circular dated 28.12.95. Since this was not brought to his knowledge, it was not possible for him to come up earlier to establish his claim as an employee belonging to OBC.

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4. Learned counsel for respondents would submit that it is for the individual official to assert such claims supported by reliable and necessary documents. Applicant for the first time staked his claim as belonging to OBC only in March, 1997, whereas other four officials, as mentioned in A-3, appeared before the respondent with the necessary documents in June, 1996 in support of their claims. These four officials took actions pursuant to R-1 notification of 1995. It is thus obvious that the applicant turned up late as compared to other employees in establishing his claim and as such respondent could not be held responsible for the alleged discrimination against the applicant, the learned counsel for the respondents submitted.

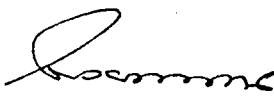
5. It is not in dispute that the applicant for the first time came to know that he is due for certain benefits only by A-2 order dated 3.2.97. It is also not disputed that facilities of reservation were introduced by the Government of India vide its resolution dated 10.9.93 notified duly by the Ministry of Home Affairs. That is the first time when the OBCs started getting reservations in appointment/promotion under Government of India. 10.9.93 Resolution was pursuant to Mandal Commission's report on OBC. (see **Indra Sawhney V. UOI, JT 1992(6) SC 273**).

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6. It is well settled in law that if an official wants to stake his claim, he has to assert his right in time alongwith necessary valid documents. What to speak of respondent's notice dated 28.12.95, applicant could have come up after September, 1993 to stake his claim on the basis of Gazette notification by the Government of India issued in September, 1993. If the applicant had decided to remain silent, respondent could not be held responsible for not offering him the benefit. Delay deprives a person both right and remedy in law (see Hamsaveni & Ors. V. State of Tamil Nadu (1994) 6 SCC 51).

7. Learned counsel for applicant would then argue that the benefit could atleast be given to the applicant from March instead of September, 1997, when the OBC certificate was handed over to respondent. It is seen that September Order in favour of the applicant was issued after applicant's case for regulation against a permanent Group-D post in OBC quota was considered. Details made available before us do not indicate that the said post could be offered to the applicant before 3.9.97. The principle that law does not render a helping hand to those who sleep over their rights applies to a reserved category candidate as well.

8. In view of the discussions aforequoted, this application has no merits and deserves to be dismissed. I do so accordingly. No costs.


(S.P. Biswas)
Member(A)

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