

Central Administrative Tribunal, Principal Bench

Original Application No.1069 of 1995

New Delhi, this the 16th day of November, 1999

Hon'ble Mr.Justice Ashok Agarwal, Chairman  
Hon'ble Mr.R.K.Ahooja, Member (Admnv)

Jagdish Kumar, S/o Late Shri Nand Lal,  
R/o H-308, Kali Bari Marg, New  
Delhi-110001.

- Applicant

(By Advocate - Shri Ashish Kalia)

Versus

1. Secretary, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training, North Block, New Delhi-110001.
2. Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi-110011

- Respondents

(By Advocate Shri Madhav Panikar)

O R D E R (Oral)

By Mr.R.K.Ahooja, Member(Admnv) -

The applicant, an Assistant in the Ministry of Telecommunication appeared in the Section Officers/ Stenographers (Grade "B"/ Grade-I) Limited Departmental Competitive Examination, 1992 (hereinafter referred to as "the LDCE, 1992") conducted by the Union Public Service Commission (in short 'UPSC') on the basis of their Notification dated 18.7.1992. In all, there were 94 posts in Section Officers' Grade against which the UPSC made recommendations only for 68 posts. The contention of the applicant is that the UPSC did not make recommendations for 26 posts belonging to the SC/ST for which suitable candidates were not available. It is the case of the applicant that respondent no.1 had made a proposal for dereservation of the 26 posts and made a suggestion to respondent no.2 to provide a supplementary list of candidates from the general category, to which the applicant belongs. The grievance of the applicant

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is that for some reason respondent no.2 did not provide the supplementary list which, if it had been done, would have included the name of the applicant. On that basis the applicant seeks a direction to respondent no.2 to release the supplementary list of qualified candidates from the general category, as requested by respondent no.2 in its letter dated 30.3.1994.

2. The aforesaid facts are admitted by the respondents, but they state that the final decision was taken on the recommendation of respondent no.2 by respondent no.1 that dereservation will not take place. Accordingly, the supplementary list was not obtained from respondent no.2.

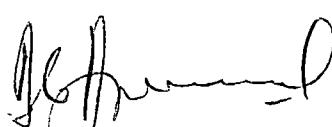
3. We have heard the counsel. Shri Asish Kalia, appearing for the applicant has brought to our notice a copy of Office Order No.44 of 1994 issued by the Ministry of Railways thereby three persons, namely, Smt. R.Shyamala, Shri Radhey Shyam Sharma and Shri Bal Krishan Malik have been nominated by the UPSC following dereservation of 3 SC and 2 ST vacancies of the year 1992-93. This order is dated 30.9.1994 and was issued after the issue of Ministry of Personnel, Public Grievances & Pensions' letter dated 30.3.1994 whereby a supplementary list of 26 eligible candidates of general category was sought for by respondent no.1 from respondent no.2.

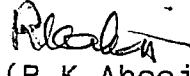
4. We agree with the respondents that the applicant can have no claim for appointment against posts which are reserved for SC/ST. However, if the respondents decide to dereserve the vacancies and further more, as would appear from Office Order No. 44

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of 1994, they seek to make appointment against some of the reserved posts, then the applicant has a claim if any of his juniors in the merit list are considered and appointed. It was argued by Shri Asish Kalia before us that even though he is not aware of the merit position in respect of any supplementary candidates, his case should be considered if as a result of the LDCE, 1992 conducted by respondent no.2 any person lower in the merit list has been appointed by the Ministry of Railways. We consider this, as a fair submission that the applicant certainly will have a claim if any person lesser in merit is appointed on the basis of the LDCE, 1992 in which the applicant had also appeared.

5. We, accordingly, dispose of this Original Application with a direction to the respondents that in case the applicant had obtained a higher position in the merit list than any Assistants appointed as a Section Officer, then the applicant will also be considered and appointed against one of the vacancies of Section Officer to be filled on the basis of the LDCE, 1992. This may be done within a period of three months from the date of receipt of a copy of this order. No costs.

  
(Ashok Agarwal)  
Chairman

  
(R.K. Ahooya)  
Member (Admnv)