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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1300/96

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

New Delhi, this the 20th day of April, 2000

Shri V.M.Thareja
s/o Shri Radha Kishan Thareja
r/o H.No.GG-3
Vikaspuri
New Delhi. ... Applicant

(In person)

Vs.

1. Union of India through
Secretary
M/o Defence
South Block
New Delhi.
2. Director General
Food Inspection Organisation
Ministry of Defence
Civil Lines
New Delhi.
3. Shri Kulwant Singh Sachdeva
Sr. Scientific Assistant
Composite Food Laboratory
Ministry of Defence
12, Rajpur Road
Delhi - 110 054. ... Respondents

(By Shri Madhav Panikkar, Advocate)

O R D E R (Oral)

By Reddy. J.

The applicant was working as Senior Scientific Assistant in the Food Inspection Organisation, Ministry of Defence. The next higher post for promotion is Junior Scientific Officer (JSO). The promotion is by way of selection. In 1996, two vacancies of JSO arose, out of which one was reserved for Scheduled Caste. The DPC, which met on 4.6.1996, considered eight employees including the applicant. Though the applicant was No.2 in the seniority list of Senior Scientific Assistant, he has not been selected


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for the promotion though Respondent No.3, who was junior to the applicant at Sl. No.4 in the seniority list, has been promoted.

2. The applicant, who is appearing in person, submits that the reservation of one of the post is itself illegal as according to the roster, there was no vacancy reserved for SC. Hence, it is argued that promotion of R-3 is liable to be set-aside. It is next contended that the reservation is illegal as it was in excess of 15% quota for SC and that is not permissible under law.

3. The learned counsel for the respondents, Shri Madhav Panikkar, submits that a vacancy arose in 1993 for promotion against SC reservation, to the post of Junior Scientific Officer and the vacancy could not be filled up as it was a single post, hence in that vacancy a general candidate has been appointed and the reserved vacancy of SC was carried forward to 1996 and the same was filled up by the impugned order. Since the promotion is by way of selection, though applicant was senior to the promoted person, he cannot make any grievance as seniority alone will not have any overriding effect to merit. It is next contended that it is permissible under law to reserve one post out of two posts as the reservation should not be more than 50%.

4. We have given careful consideration to the pleadings and the arguments advanced on either side. The crucial question in the case is whether one of the posts could be reserved for SC? According to the

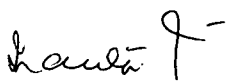



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applicant as per the reservation roster, there was no reservation for the post of Junior Scientific Officer in 1996. The counsel for the respondents admits this situation but it is his case that SC vacancy which was reserved in 1993 could not be filled up because of single post and the same was carried forward to 1996. In our view, the same cannot be found fault with because normally if a reserved vacancy was not filled up, the same can be carried forward to the next selection and the next selection being held in 1996, it was rightly carried forward to 1996 and out of two vacancies that arose one was reserved for SC and the same was filled up by SC only. We do not find any reason to doubt the statement made by the respondents in the reply, in the record. In the circumstances, there cannot be any illegality in reserving one post for SC. It is also not correct to say that there is an excess percentage of reservation against SC quota. Normally, the total of reserved vacancies should not exceed 50% of the available vacancies. Hence, out of two, one can be reserved for SC candidate. It is also the case of the applicant that as Respondent No.3 had been imposed penalty of censure in the departmental proceedings, he could not have been promoted in 1996. It is stated in the counter that the penalty of censure was awarded on 10.7.1995, he was considered for promotion by DPC on 4.6.1996 and he was promoted after his service record was duly verified. As the penalty of censure ended on 9.7.1996, his promotion was given w.e.f. 10.7.1996. Law is well settled that censure is a minor punishment and it will have the effect only for six months or one year and thereafter the incumbent could be promoted.

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5. In the above circumstances, finding no merit in the OA, the OA is dismissed. No costs.


(SMT. SHANTA SHASTRY)
MEMBER(A)


(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

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