

(13)

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

O.A.No.141/96

New Delhi this the 8th day of October, 1999.

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE SHRI S.P.BISWAS, MEMBER (A)

Sh.Ajay Singh Chauhan,
S/o Sh.Baljeet Singh,
Vill & P.O. Aurangabad
Teh.Hodal Distt.Faridabad,
Haryana.

..Applicant

vs.

1. Central Board of Trustees
through Central P.F.Commissioner,
Business Park, 25 Shivaji Marg,
New Delhi-15.

2. Regional Provident Fund Commissioner,
Sector 15-A, Faridabad,
Haryana 121007.

3. Sh.Rajinder Basapatra,
Head Clerk,
C/o Regional Provident Fund Commissioner,
Sector 15-A, Faridabad,
Haryana.

..Respondents

(By Advocate Mr. P.M.Ahlawat for R3)

O R D E R (ORAL)

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The applicant, Ajay Singh Chauhan who is working as Upper Division Clerk in the office of the 2nd respondent has filed this application aggrieved by his non-promotion and promotion of the 3rd respondent who belongs to the Scheduled Tribe community. It is alleged in the application that in the cadre containing only 40 sanctioned posts of Upper Division Clerks as many as 13 are occupied by members of SC/ST and so there has been excess promotion in the reserve category against the pronouncement of the Hon'ble Supreme Court in R.K.Sabharwal vs. State of Punjab and others, AIR 1996 SC 1371. Therefore the applicant has prayed that the respondents may be directed to follow the roster for reservation in favour of the

✓

Scheduled Caste and Scheduled Tribe candidates strictly in accordance with the judgment of the Supreme Court and to quash the order dated 15 Sept 1995 by which the 3rd respondent was promoted in excess of the quota.

2. Respondents 1 and 2 in their reply have refuted the allegation that there has been any infraction of the rules regarding seniority or reservation while making the promotions. They seek to justify the promotion given to 3rd respondent on the ground that he being a member of the Scheduled Tribe has been promoted towards the roster point in accordance with the rules. The respondents also contend that there are as many as 67 persons senior to the applicant waiting for promotion in the seniority quota and in examination quota none who was placed lower in the merit list has been promoted.

3. The third respondent has filed a reply statement in which it has been contended that he has been promoted only against reserved quota for Scheduled Tribes and that no excess promotion has been made in the category in which he belongs.

4. When the application came up for hearing, we did not have the privilege of hearing either the applicant or his counsel since they were not present. Shri P.M.Ahlawat appeared for respondent No.3 and none appeared for respondents 1 and 2.

5. A careful scrutiny of the pleadings in this case does not disclose any cause of action of the applicant which calls for adjudication in this case. The applicant has not been able to bring on record anything to show that in making promotion either his seniority or percentage of reservation has been

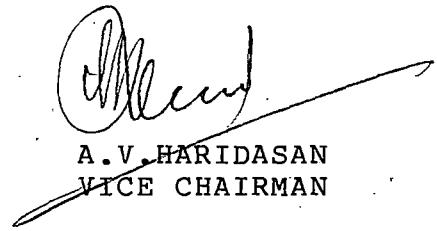
W

violated. The challenge against the promotion of the third respondent is unsustainable because the applicant has not been able to make out that the promotion of the third respondent would be in excess of the promotion quota.

6. In the light of what is stated above, we see no merit in the application which is dismissed leaving the parties to bear their own costs.



S.P.BISWAS
MEMBER(A)



A.V. HARIDASAN
VICE CHAIRMAN

/njj/