

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

...
OA.No.1912 of 1996
MA.No.742 of 1997
MA.No.1816 of 1996

(20)

Dated New Delhi, this 14th day of August, 1997.

HON'BLE DR JOSE P. VERGHESE, VICE CHAIRMAN (J)
HON'BLE MR K. MUTHUKUMAR, MEMBER (A)

1. Shri Lalit Kumar
1265 Gulabi Bagh
NEW DELHI 110 007.
2. Shri Rajeev Dahiya
S/o Late Maj Suraj Mal
570 Sonepat Road
Rohtak 124 001
HARYANA.
3. Shri Sanjay Kumar
S/o Shri Prabhu Singh
Vill & PO Bhaini Bhairon
Dt. Rohtak 124 112
HARYANA.
4. Shri Rizwan Ahmad
C/o Shri A. Ghani, IRO (Retd.)
Rahmat Colony, Doranda
Ranchi 834 002
BIHAR.
5. Shri Navin Chaudhary
S/o Shri Inder Singh
Vill & PO Daha
Dt. Meerut 250 622
UTTAR PRADESH.
6. Shri Bhudev
S/o Shri Gaje Singh
Vill & PO Jahangirpur
Dt. Rohtak
ROHTAK.
7. Shri Rajesh Kumar
182 Indira Vihar
Near Kingsway Camp
DELHI 110 009.
8. Shri Manoj Kumar Singh
C/o Prof. Ashok Kumar Singh
Piska More, Dayal Nagar
P.O. Hehal, Dist. Ranchi
BIHAR 834 005.
9. Shri M. S. Rao
Pocket A, 15D
Mayur Vihar Phase-II
NEW DELHI 110 091.

10. Shri Gopal Pandey
90 B/2 Baghambarie Gaddie
Bhardwaj Puram
ALLAHABAD (U.P.).

11. Shri Anjani Kumar Chaudhary
1245 Mukherjee Nagar
DELHI 110 009.

12. Shri Abhay Kumar Singh
C/o Mrs P.L. Singh
C-7, GTB Hospital Campus
Shahdara
DELHI 110 055.

13. Shri Sunil Kumar Singh
S/o Shri Ram Sewak Singh
Advocate, At-Bibiganj
P.O. Bhagwanpur Chatti
Dt. Muzaffarpur 842 001.
BIHAR.

14. Shri Saurabh Prakash Mishra
C/o Shri K. K. Dubey
56, Nehru Nagar
PATNA 800 013.

15. Shri. Ganga Kumar Sinha
C/o Late Jamuna Lal
Behind Ajay Bhawan
Mohalla Langartoli
P.O. Bankipur
PATNA 800 004.

... Applicants

By Advocate: Shri V. Shekhar

VERSUS

1. Union of India, through
Secretary
Department of Revenue
Ministry of Finance
North Block
NEW DELHI.

2. Chairman
Central Board of Excise
& Customs, North Block
NEW DELHI.

3. Secretary
Department of Personnel
& Training
Ministry of Personnel, Public
Grievances and Pension
North Block
NEW DELHI.

4. Chairman
Staff Selection Commission
Block No.12, CGO Complex
Lodi Road
NEW DELHI-110 003.

Contd..3

5. The Principal Collector
Central Excise
Central Excise Building
M. K. Road
BOMBAY-400 020

6. The Regional Director (W.R.)
Staff Selection Commission
Army & Navy Building, 2nd floor
M.G. Road, Kala Ghora
BOMBAY-400 001. ... Respondents

By Advocate: Shri R. R. Bharti

O R D E R (Oral)

Dr Jose P. Verghese, VC(J)

These 154 candidates were declared successful in the 1993 examination in the Maharashtra zone in addition to the number of candidates who were already absorbed. These 154 candidates were stated to have become excess only due to a mistake in the calculation of the vacancies at the instance of the respondents. The mistake is stated to have been identified only after the results were declared and the postings were to be done.

2. During the previous hearings we were of the prima facie opinion that these successful candidates who were declared so, had a claim to the posts only if the vacancies are available. It was for no fault of theirs that they were being denied the postings. We were also of the prima facie opinion that if no posting is available for these candidates this could have been a fit case for awarding exemplary cost/ compensation in favour of these 154 candidates. We

again requested the respondents to find out a solution. The respondents by an affidavit have come with a partial solution stating that they have located some vacancies in the Maharashtra zone - 25 for the year 1995 and 29 pertaining to the year 1996 and the remaining 100 candidates, it was stated that they would be accommodated in the subsequent years and it was stated that no further recruitment will take place in future, before accommodating these candidates in the Maharashtra zone. At that stage it was pointed out on behalf of the applicants that in the Advertisement dated 23.11.96 paragraph-4 indicates that all the vacancies of zones of Maharashtra (except for Goa) and Gujrat have been excluded by the concerned department from the list of vacancies reported to the Commission for the 1995 recruitment. It was also pointed out to us that a letter to the Member, Staff Selection Commission addressed by the Joint Secretary (Admn.), Department of Revenue dated 8.1.97, stating that sufficient number of vacancies for absorbing all the 154 candidates are available in Maharashtra and Gujrat zones against the vacancies for the year 1993 to 1995. This letter was enclosed with the affidavit referred to above.

3. In view of this, again the respondents were requested to take appropriate instructions whether

(24)

the affected persons can be accommodated only in Maharashtra zone or as stated by the applicant, both in Maharashtra and Gujrat zones put together for the year 1995.

4. The respondents have now come up with an affidavit stating that even though vacancies are available to accommodate the 154 candidates who fall in the Maharashtra as well as Gujrat zones, there may be some difficulty that may arise in future if a direction is given by this court to absorb these 154 candidates both in Maharashtra as well as Gujrat. 51 posts out of the total number of vacancies available in Gujrat happened to be available on the basis of the higher cut-off marks than that of candidates of Maharashtra zone and these persons who might have expected that they may have a better claim than that of the present applicants. Those candidates are still in the market or whether they have been selected in that year or the subsequent year or not, is not known. We also do not even know whether all these persons who might have not possibly affected by now taking away these 51 posts to the applicants, in case these posts are not filled up, which would have otherwise gone out to those unidentified persons, on the basis of the higher cut-off marks. On the other hand, the respondents have already stated, as evident from the Advertisement stated

above that these posts were ear-marked for some purposes or some eventualities and we find from the records that there are sufficient number of vacancies where the applicants before us could be absorbed.

5. There is also an apprehension raised by the respondents that the candidates who have already joined in Gujrat zone on the basis of the higher cut-off marks, while compared with the present applicants who would be joining without suffering such cut-off marks, may have a better claim than the present applicants. It is reiterated that the persons who have already joined in the Maharashtra zone in pursuant to the said examination prior to the applicants will have the higher seniority by absorption in Gujrat zone and those who join after their order shall be kept junior to all those persons who have already joined, in accordance with the said examination, prior to the passing of this order.

6. In the circumstances, we find that both the apprehensions are not a real down-to-earth problem and in view of this and in view of their own statements made in the Advertisement as well as the affidavit, the applicants shall be absorbed against the vacancies available for the year 1995 both in the Maharashtra as well as in Gujrat zones. These orders shall be implemented within a period of three months from the date of receipt of a copy of this order. However, we make it clear that if

(26)

any other vacancies are available and if the results of the subsequent examination have not been implemented, the respondents are at liberty to calculate the remaining vacancies of both Maharashtra as well as Gujrat zones and apply the same principle of exchange till the examination that has now been finalised and thereafter in subsequent years, the rule of keeping the zones separately both Maharashtra and Gujrat may be continued in accordance with the rules and subject to prospective application of the Supreme Court decision, abolition of zone-wise selection.

7. The case is disposed of. No order as to costs.


(K. Muthukumar)
Member (A)


(Dr. Jose P. Verghese)
Vice Chairman (J)

dbc