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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-442/96

with

OA-441/96

OA-95/96

HON'BLE MR. JUSTICE CHETTUR SANKARAN NAIR, CHAIRMAN
HON'BLE MR. S.P. BISWAS, MEMBER(A)

New Delhi this the 13th day of November, 1996.

OA 442/1996

Shri Ravinder Singh
s/o Shri Ishwar Singh
81-L, Model Town, Rohtak-124001 ... Applicant

(through Shri Kamlesh Khuchar, advocate)

versus

Union of India through

1. The Secretary(Revenue)
Ministry of Finance,
North Block,
New Delhi.
2. Secretary
Block No.12
Staff Selection Commission
CGO Complex, New Delhi
3. The Regional Director(WR)
Staff Selection Commission
148, MG Road, Bombay Respondents

(through Shri R.R. Bharti, Advocate)

OA 441/96

Shri Rajesh Dabas
s/o Shri Rajinder Singh
109-B, New Colony, Gurgaon .. Applicant

(Applicant in person)

versus

1. Union of India
Secretary (Revenue)
Deptt. of Finance
Ministry of Finance
North Block, New Delhi
2. Chairman
Staff Selection Commission
Block No.12,
CGO Complex, New Delhi
3. Regional Director (WR)
Staff Selection Commission
Army & Navy Building, 2nd Floor,
148, M.G. Road, Bombay. .. Respondent
(through Shri R.R. Bharti, Advocate)

OA No.95/96

Shri Sunil Kumar Bansal
s/o Shri S.B. Bansal
124, Hazirattan, Bhatinda (Punjab) .. Applicant
(through Shri Kamlesh Khuchar, advocate)

Versus

1. Union of India
through Secretary
Ministry of Finance
North Block, New Delhi
2. Secretary
Block No.12,
Staff Selection Commission
CGO Complex, New Delhi

(through Shri R.R. Bharti, Advocate)

The application having been heard on 13.11.1996
the Tribunal on the same day delivered the following:

ORDER

Chettur Sankaran Nair(J), Chairman

De hors, frills and embroidery, the short question is whether 105 of 127 posts can be reserved for if so and whether that would pass muster of Article 14 and 16.

2. Applications were invited for filling up the posts of Inspectors of Central Excise, Income Tax etc. 1994', by Annexure-A in OA-442/96. Applicants in the three cases before us, as also others applied. Eventually the selection was made. In that selection, 70 members of Other Backward Classes, 23 members belonging to Schedule Caste, 12 members belonging to Schedule Tribe and 22 members belonging to unreserved categories were selected. 105 out of 127 seats were reserved. This is against the law declared by Supreme Court and beyond the parameters permitted by the

Constitution submit counsel for applicants as also applicant in OA-441/96 who appeared in person and argued his case. Applicants referred to the decision of the Supreme Court in Indra Sawhney Vs. Union of India (AIR 1993 SC 477), to the effect that reservation quota cannot exceed 50% in any given year. In paragraph-98 of the judgement, the Supreme Court has made it clear that 50% rule on reservation is to be applied to the unit of one year. We understand to the decision mean that in any given year more than 50% posts cannot be reserved. The 50% includes carry forward and other vacancies. The clear allegation is that 105 of 127 posts have been reserved. This is not disputed and all that is stated in the reply statement is that:

"Averments are matters of record."

3. Not to leave matters to doubt, we specifically asked learned counsel for respondents whether this statement of fact is denied. Candidly he admitted that 105 of 127 posts have been reserved. According to him such reservation will not militate against Indra Sawhney rule, as in his view the 50% limit attaches itself only to the vacancies arising in a particular year. We cannot assent to the submission. In clear and unambiguous terms the Supreme Court has stated that the 50% rule applies to every unit of a year irrespective of the composition of the vacancies. It follows that there is a clear violation or overstepping of the parameters laid down by the Constitution and the apex court. The selection cannot be upheld. We allow the

applications and quash the selection made. This does not mean that the selection has to be done again. From the existing select list appointments can be made applying the limit of 50% quota.

4. Respondents will pay Rs.1000/- (Rupees One Thousand) as costs to applicants in each of the cases.

Dated, the 13th day of November, 1996.

(S.P. Biswas)
Member(A)

(Chettur Sankaran Nair(J))
Chairman

/vv/

*True copy
present*

13/11/96

PRITAM SINGH

Central Tribunal

Faridkot Road, New Delhi

18/11