

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.2082/1997

New Delhi: this the 15th day of July, 1998.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri Bhupender Singh,
S/o Shri Net Ram Singh,
R/i 1863/19,
Kanhia Nagar, Trinagar,
Delhi- 035 Applicant.

(By Advocate: Shri P.P.Khurana)

Versus

Union Public Service Commission,
through its Secretary,
Dholpur House,
Shahjehan Road,
New Delhi Respondents.

(By Advocate: Shri P.H. Ramchandani).

JUDGMENT

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Applicant impugns respondents' letter dated 2.6.97 (Annexure-A1) and seeks a direction to respondents to appoint him to a suitable post as the result of the Engineering Services Examination, 1995.

2. The UPSC issued notice for the E.S. Exam., 1995 which appeared in the Employment News of 18-24 Feb., 1995 (Annexure-A2) indicating that the number of vacancies to be filled up as the result of the Exam. were expected to be approx. 600. As the UPSC conducts these exams. on behalf of various participating Ministries / Departments of GOI, the exact number of vacancies depends upon what those Ministries/Departments finally reported. The participating Ministries/Departments reported 542 firm vacancies before

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the declaration of the result. Out of these 542 vacancies, 181 vacancies were for Category I - Civil Engineering Group which included 27 vacancies for SC; 13 for ST; 49 for OBC and 92 for general candidate. A total of 180 candidates was recommended for appointment in Category I- Civil Engineering Group, and the result in respect of 1 candidate was withheld.

3. In the result declared on 23.5.96 (Annexure-A7) applicant's position was at Sl. No.140 in the list pertaining to the Civil Eng. Group and his position had to be calculated against the vacancies for OBC, he belonging to the OBC category. He stood at 49th position against 49 vacancies meant for OBC candidate. The list also included 22 OBC candidates who were recommended against vacancies meant for general candidates.

4. Respondents state that at the time of finalisation of result on account of a genuine and inadvertent error on the part of the UPSC Secretariat, the fact that 3 of the 22 OBC candidates qualifying at general standard had in fact availed of age relaxation was lost sight of. After the declaration of the result of the E.S. Exam., 1995 in May, 1996 when this discrepancy was noticed, the error was rectified by adjusting 3 OBC candidates against vacancies reserved for OBC candidates and filling up the consequent vacancies by 3 general candidates. Simultaneously the ^{Three} ~~lowest~~ OBC candidates, including applicant, who had been declared qualified earlier, were

deleted from the list of qualified candidates. 16

5. It is unfortunate that the applicant was one of those adversely affected, but we are satisfied that the action taken by respondents to correct their error (which if uncorrected would have caused irreparable loss to 3 candidates) cannot be categorised as illegal, arbitrary or malafide. The mere fact that applicant was declared to have qualified in the exam. does not give him an enforceable legal right to be appointed.

6. Shri Khurana also sought to argue that when the number of vacancies in the UPSC notice was stated to be 600, respondents had no right to reduce it to 542 and if the number of vacancies mentioned in the notice had been adhered to, applicant stood a good chance of being appointed.

7. We note that the notice expressly stated that the number of vacancies were expected to be approximately 600. There was no firm commitment that the number of vacancies would be 600 and no less. Under the circumstances it cannot also be contended that respondents arbitrarily and unilaterally reduced the number of vacancies to invite the charge of having acted contrary to Articles 14 and 16 of the Constitution. Shri Khurana had stated that he would be citing judgments to support his arguments on this point, but till date no judgments have been cited by him.

8. Under the circumstance, we see no good

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reasons to interfere in this matter. The O.A.
is dismissed. No costs.

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J)

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(S.R. ADIGE)
VICE CHAIRMAN (A).

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