

CAT/11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2486/97
T.A. No.

199

DATE OF DECISION 23.3.98

Sh. Parasram Dass & Ors

Petitioner

Sh. Shyam Babu

Advocate for the Petitioner(s)

Versus

Commissioners of Police & Ors

Respondent

Sh. Arun Bhardwaj for R-1

Advocate for the Respondent

Mrs Sumedha Sharma for R-2&3

CC: AM

The Hon'ble Shri S.R. Adige, Vice Chairman(A)

The Hon'ble Smr. Lakshmi Swaminathan, Member(J)

1. To be referred to the Reporter or not? *Y*

2. Whether it needs to be circulated to other Benches of the Tribunal?

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

12

Central Administrative Tribunal
Principal Bench

O.A. 2486/97

New Delhi this the 23 th day of March, 1998

Hon'ble Shri S.R. Adige, Vice Chairman(A);
Hon'ble Smt. Lakshmi Swaminathan, Member(J).

1. Parasram Dass (D-448),
S/o late Shri T.R. Dass,
R/o C-12, PS Rajouri Garden,
New Delhi.
2. Inder Pal,
(D-423),
S/o Shri Yadram,
R/o F-2907, Netaji Nagar,
New Delhi.
3. Narain Singh
(D-425),
S/o Shri Hardev Singh,
R/o 294, Police Colony,
Ashok Vihar,
New Delhi.

... Applicants.

By Advocate Shri Shyam Babu.

Versus

1. Commissioner of Police, Delhi,
Police Headquarters,
I.P. Estate,
New Delhi.
2. Vijender Singh Tomar,
S/o Late Shri Gopal Singh,
R/o Z-499, Timarpur, Delhi.
3. Shri Raghbir Singh,
S/o late Shri Giani Ram,
R/o H.No. 909, Vill & PO - Nahari,
Sonepat, Haryana.

... Respondents.

By Advocate Shri Arun Bhardwaj for Respondent No.1.

By Advocate Mrs. Sumedha Sharma for Respondent No.2&3.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicants are aggrieved by the respondents order dated 23.9.1997 and pray for quashing of the order and for directions to the respondents to exhaust the list dated 6.5.1996 for promotion of Sub Inspectors (Ministerial) in which their name figures at Serial Nos. 33-35.

2. The respondents have issued O.M. dated 2.7.1997 on the subject of reservation for SC/ST posts in the roster in accordance with the judgement of the Hon'ble Supreme Court in R.K. Sabharwal & Ors. Vs. State of Punjab (1995(2) SCC 745) decided on 10.2.1995. The respondents have submitted that when the DPC met in April, 1996 to fill up 35 vacancies (Ministerial), they had taken into account the vacancies which were anticipated and calculated on retirement/resignation/promotion/deputation, etc. They had earmarked 18 vacancies for general candidates and 17 for SCs/STs, but since there was no eligible ST candidate either in normal or extended zone of consideration of the 17 posts, they went to SC candidates. In pursuance of the judgement of the Supreme Court in Sabharwal's case (supra) and J.C. Malik Vs. Ministry of Railway (SLJ 1996 (1) SC 115), the Govt. of India, DOP&T had issued O.M. dated 2.7.1997. The Supreme Court had held that the reservations of job for the backward classes, SC/ST/OBCs should be applied to posts and not to vacancies. In accordance with these judgements the respondents have submitted that they had drawn up fresh panel for list 'F' (Ministerial) for which service particulars of eligible candidates falling within the zone of consideration were called for.

3. Shri Shyam Babu, learned counsel, has submitted that so long as the promotion list dated 6.5.1996 has not been exhausted in which the applicants who are SC candidates figure at Serial No. 33-35, the respondents cannot operate any other promotion list. In particular, he has laid much emphasis on paragraph 9 of the O.M. dated 2.7.1997 which provides that these orders shall take effect from the date of their issue and where selections have already been finalised they need not be

disturbed and the necessary adjustments in such cases may be made in future. He, therefore, submits that till the earlier list is exhausted and the applicants are promoted as Sub-Inspectors, the respondents cannot follow a different promotion panel.

4. M.A.372/98 for impleadment of private respondents allowed and all parties have been heard.

5. The respondents have on the other hand submitted that the earlier panel drawn on 30.4.1996 has not been exhausted even after the expiry of one and a half years and they have submitted that normally the validity of the panel is one year. Apart from that, we note that the O.M. dated 2.7.1997 merely implements the law on reservation post-wise and not vacancy-wise in accordance with the pronouncement of the Supreme Court in Sabharwal's case (supra) and the action taken by the respondents in accordance with O.M. dated 2.7.1997 cannot be faulted. The judgement of the Supreme Court in Sabharwal's case (supra) is dated 10.2.1995. In the circumstances, we also do not find any merit in the arguments advanced by the learned counsel for the applicants that as the applicants' selections have been finalised they should not be disturbed because those selections are subject to the law as declared by the Hon'ble Supreme Court under Article 141 of the Constitution of India.

6. In the result, for the reasons given above, this application fails and is accordingly dismissed. No costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

S.R. Adige
(S.R. Adige)
Vice Chairman(A)