

(V)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No. 31/97

New Delhi; this the 29th August, 1997

HON'BLE MR.S.R.ADIGE MEMBER(A).

HON'BLE DR.A.VEDAVALLI MEMBER(J)

1. Shri Brahma Prakash,
S/o Shri Hari Singh,
P/o Village & P.O. Tiganj,
Distt. Faridabad (Haryana).
2. Shri Mohinder Singh,
S/o Shri Ami Chand,
House No.1140, Sector 7C,
Faridabad (Haryana)Applicants.

(By Advocate: Shri P.M.Ahluwati)

versus

1. The Secretary to
the Govt. of India,
Ministry of Labour,
Shram Shakti Bhawan,
New Delhi - 110 001
2. The Central P.F. Commissioner,
Provident Fund Organisation,
Bhikaji Cama Place,
New Delhi - 110 066.
3. The Regional Provident Fund Commissioner,
Bhavashya Nidhi Bhawan,
Sector- 15A,
Faridabad (Haryana)Respondents

(By Advocate: Shri K.C.Sharma)

JUDGMENT

BY HON'BLE MR.S.R.ADIGE MEMBER(A).

Applicants impugn respondents' order dated 12.12.96 (Annexure-I) and pray for appointment as peons, keeping in view their selection for the post and availability of vacancies.

2. Respondents notified 5 vacancies of peon to the concerned Employment Exchange on 4.5.95 (Annexure-R1) including 4 general vacancies and 1 SC vacancy. After receiving a list of candidates from the Employment Exchange, the Selection Committee met on 30.5.94 (Annexure-R2),

and decided to fill up 3 out of the 4 general vacancies and the SC vacancy, keeping 1 general vacancy unfilled for the time being to be filled by an OBC candidate, reservation for whom had been granted u.e.f. 8.9.93. The Selection Committee prepared a panel of 6 names including 1 SC candidate. The two applicants before us who were at Serial Nos. 5 and 6 of the panel and are general candidates were not appointed as per that selection, and applicants' counsel Shri Ahlawat has argued that pursuant to respondents' order dated 19.5.95 (Annexure-A2) promoting 2 peons as LDCs against 35% Departmental Exam. quota, applicants should be appointed against those 2 vacancies.

3. Shri Ahlawat has relied upon letter dated 13.3.69 reproduced at para F of page 135 of Muthuswamy's Compilation on Est. and Admin. as well as a number of rulings including AIR 1991 SC 2272; 1991 (18) ATC 240; 1992(1) ATJ 559; and 1996(4) SCC 319. The letter dated 13.3.69 does not advance applicants' case as it relates to recruitment through UPSC, which is not the case here, and the rulings cited by Shri Ahlawat also do not avail the applicants, as they refer to anticipated vacancies. From the requisition dated 4.5.94 sent by respondents to the Employment Exchange it is clear that only 5 vacancies were notified, and the 2 vacancies which became available on 19.5.95 consequent to the promotion of 2 peons as LDCs in the 35% Dept. Competition quota were not anticipated by them on 30.5.94 when the Selection Committee met.

4. On the basis of the rulings cited by

(3)

Shri K.C.Sharma namely 1996(1) SCC 283; 1995(1) SCC 126; JT 1994(3) 559 and 1992 (2) SLR 267 we are satisfied that applicants who were placed on a direct recruits' panel by a Selection Committee on 30.5.94 to be considered for appointment in case any of the 3 general candidates above them were not appointed, have no legal right to claim appointment against 2 posts of posts which fell vacant consequent to the promotion of the 2 incumbents on 19.5.95 as LDCs against 35% Dept. Competition quota, because vacancies declared for a particular recruitment can be filled by selection only through that recruitment process, and the 2 vacancies of 19.5.95 were never anticipated on 30.5.94.

5. The OA is dismissed. No costs.

A.Vedavalli
(DR.A.VEDAVALLI)

S.R.Adige
(S.R.ADIGE)
MEMBER(A).

/ug/