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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 369/97 and 1028/97

New Delhi this the 2nd Day of September, 1997

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)
Hon'ble Shri N. Sahu, Member (A)

1. Shri K.L. Meena
Son of Late Shri Gopi Ram,
Resident of 304, Sector V,
Pushpa Vihar, New Delhi.
2. Shri Bhagwan Dass,
Son of Shri Ramji Lal,
Resident of C-I/48, Raju Park,
Khanpur, New Delhi-110 062.

(Mrs. P.K. Gupta with Shri Harvir Singh)

-Versus-

1. Union of India
Cabinet Secretariat,
North Block,
Government of India,
through its Secretary
2. Director,
Office of the Director of Accounts,
(Cabinet Secretariat)
East Block No. IX, Level 7,
R.K.Puram, New Delhi.
3. Shri P.K. Bhatnagar,
Section Officer (Accounts),
Office of Director of Accounts,
East Block No. IX, Level 7,
R.K.Puram, New Delhi.
4. Shri Dushyanta Jain,
Section Officer (Accounts),
Office of Director of Accounts,
East Block No. IX, Level-7,
R.K.Puram, New Delhi.
5. Shri Chandra Prakash,
Section Officer (Accounts),
Office of Director of Accounts,
East Block No. IX,
R.K.Puram, New Delhi.
6. Shri P.C. Bhattacharya,
Section Officer (Accounts),
Office of Director of Accounts,
East Block No. IX, Level-7,
R.K.Puram, New Delhi.
7. Shri Bhagwan Das,
Section Officer (Accounts),
Office of the Director of Accounts,
East Block No. IX, Level-7,
R.K.Puram, New Delhi.

Respondents

(By Advocate: Shri KCD Gangwani)

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ORDER (Oral)

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)

The controversy in both these OAs has arisen out of the DPC that has been held in the year 1993 in the month of December for filling up two anticipated vacancies. The circumstances leading to these vacancies have been taken note of in our previous proceedings dated 2.4.1997. The contention of the learned counsel for the petitioner today is that these two vacancies are reserved for Scheduled Castes as well as Scheduled Tribes candidates. The first vacancy was the third forward of point of 14, and the other second carry forward of point 17 and also under Serial No. 22 of the roster. The respondents, on the other hand, instead of filling up these two points by reserved candidates, on the ground that third carry forward point 14 is likely to be lapsed, appointed Shri Bhagwan Dass against the said vacancy and a general candidate was appointed against the second vacancy. The justification now given by the respondents is that the two anticipated vacancies available in December 1993 was wrong anticipation and only one of them actually occurred and that makes a vacancy in the category of single vacancy and there cannot be reservation on the ground of 100% reservation to the Scheduled Castes. We are afraid that the rules states otherwise. According to the rules then prevalent the two anticipated vacancies at the time of holding the DPC were good vacancies in accordance with the relevant DOP&T order as well as the same as interpreted in Bannerjee's case by

Hon'ble Supreme Court. The position is to be looked at the time when the vacancy arose and when the DPC was held. There were two anticipated vacancies. By subsequent event it cannot be stated that the DPC was considering vacancies as a single vacancy and that cannot be in accordance with the rules. Therefore, the contention of the respondents that the vacancy was single vacancy only on the basis of a future event, not foreseen at the time of DPC, will continue to be an anticipated vacancy, and the appointment of the general candidate on this ground is illegal and contrary to Rules and, therefore, it needs to be set aside.

2. The appointment of Shri Bhagwan Dass, therefore, shall be treated against the vacancy available to a reserved candidate while the DPC has considered the two anticipated vacancies in December, 1993.

3. It was an admitted position that when DPC was held in December 1993 the reserved candidate Mr. Meena who belongs to Schedule Tribe, was not available for the post.

4. Even though point 14 on the roster, being a third carry forward in December 1993 has lapsed, point 17 is still available for ST to be carried forward further and the contention of the petitioner on behalf of Mr. Meena is that his name may be considered as a carry forward of point 17 of the ST candidate in the next DPC. We therefore,

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direct the respondents that the petitioner is entitled to the next available DPC and the name of the petitioner Mr. Meena against the ST vacancies shall be considered. It is stated that even for the four vacancies that arose in the year 1995, the respondents shall hold a review DPC and consider the case of the petitioner Mr. Meena against the second carry forward of point 17 of the roster reserved for ST.

5. It was stated by the counsel for the respondents that the four vacancies that arose have been filled up from among the candidates available in the panel in December 1993, What we would like to state is that the life of the panel may be extended in accordance with the rules but confined to the number of vacancies for which DPC was held. The subsequent further vacancies shall be subject to DPC, not to fill up candidates from the previous panel, but from a panel newly made by DPC in accordance with Rules. In case Respondents have not held DPC in 1995 for the 4 vacancies that have arisen subsequently, fresh DPC shall be held in accordance with Rules, and the name of the petitioner shall be considered as observed in this order.

6. With these directions, these OAS are disposed of, no order as to costs.

N. Sahu

(N. Sahu)
Member (A)


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