

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI.

(7)

O.A. No. 521/97
T.A. No.

DATE OF DECISION 6-2-98

Shri Y. S. Verma Applicant(s)

Versus

Union of India Respondent(s)

(For Instructions)

1. Whether it be referred to the Reporter or not?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?

(Dr. Jose P. Verghese)
VC (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 521/97

New Delhi this the 6th Day of February 1998

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

Shri Y.S. Verma,
Son of late Shri Kanwar Singh,
Resident of House No. E-502, Jagjeet Nagar,
New Delhi-110 053. Petitioner

(By Advocate: Shri S.K. Gupta)

-Versus-

Union of India, through
The Secretary,
Ministry of Environment & Forests,
Paryavaran Bhawan,
New Delhi-110 003. Respondent

(By Advocate: Shri R.V. Sinha)

ORDER

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

The petitioner in this case is seeking a declaration from this Court that the application of roster for reservation of vacancy for SC/ST on isolated single post of Assistant Commissioner (Forest) is illegal and unconstitutional. The case of the petitioner is that he was working as Technical Officer in the pay scale of Rs. 2000-3500 since 1983 on deputation basis. He was not absorbed on this post till to date, and after completing 58 years of age the applicant superannuated on 31.5.1997. The applicant had claimed promotion to the post of Assistant Commissioner (Forestry) in the pay scale of Rs. 3000-4500 at least after the death of Shri S.R. Moghe against the resultant vacancy. The petitioner had given a representation on 11.12.1996 and another one on

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14.1.1997 and the same was considered and rejected for the reasons stated in the order dated 10.2.1997 itself. The petitioner is challenging the said order in this OA.

2. The principal contention of the counsel for the petitioner is that as per the law laid down by the Hon'ble Supreme Court in the following cases, Indira Sahney's case (Mandal Commission) 1992 (22) A.T.C. 380. Dr. Chakradhar Paswan Vs. State of Bihar, 1988 (2) S.C.C. 214., Bhide Girls Edu. Society Vs. Education Officer, Zila Parishad Nagpur, 1993 (Supp.) (3) S.C.C. 527. Chetna Dilip Motghare Vs. Bhide Girls Edu. Society Nagpur, 1995 (Supp.) (1) S.C.C. 157., no reservation can be done on the single post.

3. After notice respondents filed the reply admitting that the post of Assistant Commissioner of (Forestry) in the Ministry of Environment and Forest is a single post and the same had become vacant due to the death of the then incumbent Shri S.R. Moghe. According to them even though the same vacancy was that of a single post, Shri S.R. Moghe being a general candidate as per the extant rule, even though point No. 1 in the 40 point roster is meant for reservation of SC, candidates, the same was treated unreserved and subsequent vacancies were to be filled up on reservation basis. It was admitted by the respondents that though the vacancy falls at Point No. 2 of the 40 point reservation roster, which is an unreserved point and the same cannot be filled up by a general community candidate for the reason the Point 1 was filled up by

the general community candidate, and the Point 1 reserved for SC candidates was thus carry forward to the subsequent years. It was pointed out that what is done by the Respondents was according to the relevant instructions issued by the DOP&T on reservation, vide OM. No. 1/9/74 Estt (SCT) dated 29.04.1975. When only one vacancy occurs in the initial recruitment year and the corresponding roster point happens to be for SC or ST, the vacancy should be treated as unreserved in the first instance and filled up accordingly and thereafter, the reservation be carried forward to subsequent three recruitment years. In the subsequent year, even if there is only one vacancy it should be treated as 'reserved' against the carried forward vacancy from the initial recruitment year, and an SC/ST candidate, if available may be appointed against that vacancy, although it may happen to be the only vacancy in that recruitment year also. It was further submitted that the above provision interalia applies also to promotion by selection from Group 'A'. Where there is a single vacancy, it may be treated as unreserved and that reservation carried forward to three subsequent years, even though rule of carry forward of reservation is not permitted in this particular class of promotion.

4. The counsel for the respondents stated that the question of reservation on a single post have been now held to be legal vide the decision of the Hon'ble Supreme Court in the matter of Union of India and Anr. Vs. Madhav and Anr. reported in JT 1996 (9) S.C. 320 wherein the Hon'ble Supreme Court has held that where there is a single post and the rule of roster has been

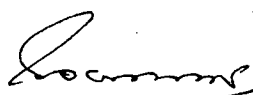
(11)


applied by the Government and the roster point is to be filled up by a reserved category candidate, such a rule of roster is not violative of Article 16(1) of the Constitution of India. In the circumstances the submission of the petitioner is that the existing vacancy in the post of Assistant Commissioner (Forestry) which falls on a carry forward reservation meant for SC only, is required to be filled up by the SC candidate only on promotion from the feeder grade of Technical grade of forestry in the pay scale of Rs. 2000-3500 and the applicant has no right of being considered for promotion to the said post, himself being a general category candidate.

5. We have considered the rival contention advanced by both the parties and we find the submission of the respondents has some substance. Para 10 of the above cited judgement is relevant and the same is reproduced herebelow:

Thus, we hold that even though there is a single post, if the Government have applied the rule of rotation and the roster point to the vacancies that had arisen in the single point post and were sought to be filled up by the candidates belonging to the reserved categories at the point on which they are eligible to be considered, such a rule is not violative of Article 16(1) of the Constitution.

6. In view of the said decision and in view of the fact that no other arguments have been advanced, this OA merits rejection. No order as to costs.


(S.P. Biswas)
Member (A)


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

Mittal