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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No. 595/97

New Delhi: this the 22nd day of July, 1998.

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

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

Shri Surender Singh Takola,
S/o Shri Jogeshwar Singh Takola,
employed as Asstt. Supdt. of Post Offices
in Dehradun Postal Division,
R/o Gopeshwar Distt. Chamoli,
..... applicant.

(By Advocate: Shri Sant Lal)

Versus

1. Union of India, through
the Secretary,
Ministry of Communications-cum-
Director General, Department of Posts,
Dak Bhawan,
New Delhi-01.
2. Shri M.M. Basha (selected candidate
of Postal Supdts. service Group 'B')
C/o the Director General,
Department of Posts,
Dak Bhawan,
New Delhi-01 Respondents.

(By Advocate: Shri R. V. Sinha)

JUDGMENT

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

Applicant who belongs to S.T. Category, seeks quashing of selection of Respondent No.2, who is a general candidate, for appointment / promotion in Postal Service Group 'B' on the basis of the Exam. held in December, 1994, and for a declaration that he has qualified for the said exam. against one of the posts reserved for an ST candidate.

2. Admittedly respondents held the aforesaid exam in December, 1994, and the list of those selected for promotion on the basis of the exam. result were announced vide letter dated 30.10.95

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(Annexure-A1).

3. Applicant contends that as per relevant reservation roster atleast one addl. vacancy should have been made available to an S.T. Candidate, and as he had secured the qualifying marks by relaxed standards, the last vacancy occupied by a general candidate (Respondent No.2) should have gone to him, and by not selecting applicant for the same, respondents have acted illegally.

4. For the OA to succeed, applicant in the first instance has to establish that he had qualified in the aforesaid exam. The marks obtained by applicant in the exam. are contained in Respondents' letter dated 4.1.96(Annexure-A3). He obtained 37% marks in Paper I; 37% in Paper II; 43% in Paper III and 44% in Paper IV.

5. Applicant relies upon respondents' letter dated 17.7.71 (Annexure-A4) read with O.P & T's order No.202/17 dated 19.12.78 and on that basis denies respondents' contention that as an S.T. candidate he had to secure 40% in the aggregate and 40% in each of the aforesaid papers to be declared qualified even by relaxed standards.

6. In this connection respondents' counsel has shown us a copy of the order dated 2.12.96 in O.A.No.2077/95 M.S.Rudreshwara Swamy and Ors. Vs. UOI & Ors. and connected cases disposed of by the CAT, Bangalore Bench. In that OA some candidates had challenged their non-selection in the very same Postal Service Group 'B' exam. held in December, 1994. In that order dated 2.12.96 while dismissing the OA,

the Bench had taken note of the affidavit filed by UOI & Ors. about the minimum marks required to be secured in each of the papers viz. 40% for SC & ST candidates and 50% for others. ~~That~~ Nothing has been shown to us to suggest that the said order has not become final. We are unable to accept Shri Sant Lal's contention that because in those Ors the minimum qualifying marks for SC/ST candidates were not specifically in issue, that judgment delivered by a coordinate Bench is not binding upon us.

7. In this connection, Shri R. V. Sinha has also filed a copy of respondents reply affidavit as well as their addl. reply affidavit on the basis of which the CAT Bangalore Bench held ~~as above~~. To our querry, Shri Sinha stated that the decision to fix the aforesaid minimum marks as outlined in para 6 above, was taken by respondents in the concerned file. While no general circular specifically fixing the aforesaid marks in each paper, and in the aggregate, as outlined in para 6 above, was furnished by Shri Sinha, we have on record a copy of Respondents' Memo dated 13.10.86 stating that the minimum qualifying standard in the Postal Service Group 'B' Exam. is 50% for general candidates and 40% for SC/ST candidates.

8. Under the circumstance, we have no prima facie reason to doubt Shri Sinha's contention that for the Postal Service Group 'B' exams. which were held in December, 1994, SC/ST candidates were required to secure minimum qualifying marks of 40% in each paper and 40% in the aggregate, and that this

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yardstick was applied in all the centres where the exams. were held, which is also confirmed by Respondents' letter dated 24.10.96 (copy on record).

9. As applicant has not succeeded in establishing that he qualified in the aforesaid exam. even by relaxed standards, we do not consider it necessary to go into the other limb of his contentions namely alleged improper application of reservation roster, because that question would merit examination only if applicant had established in the first instance that although he had qualified in the exams., he was denied its benefits because of improper application of the reservation roster.

10. In the result the OA is dismissed. No costs.

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

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

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