

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O. A. No. 973/1997

New Delhi: this the ¹²29th day of July, 1998. (13)

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

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

1. Shri J. N. Das,
S/o Late Shri Bishram Das,
R/o Mohalla Chaiya,
Opp. Topas Hostel, ISM PO,
Dhanbad, Bihar-826004.
2. Shri Dambaru Dhar Tanty,
S/o Shri Budhadev Mahanand,
r/o qtr. No. 8/191, Sector-VIII,
Burdela (Orissa).
3. Shri Padma Lochan Rai,
S/o Late Shri Banshidhar Rai,
r/o Plot No. 95, Shaheed Nagar,
Bhubaneswar (Orissa)
4. Shri Ram Nivas Prasad,
S/o Shri Ram Dayal Ram,
r/o Hill View (North)
Near Children Park,
Asansol (West Bengal)

..... Applicants.

(By Advocate: Dr. M. P. Raju)

Versus

1. Union of India,
through
the Secretary,
Ministry of Labour,
Shram Shakti Bhawan,
Rafi Marg, New Delhi.
2. Chief Labour Commissioner (Central),
Ministry of Labour,
Shram Shakti Bhawan,
Rafi Marg, New Delhi.
3. National Commission for SCs/STs,
Govt. of India,
Vth Floor,
Lok Nayak Bhawan,
New Delhi - 03

..... Respondents.

(By Advocate: Shri KCD Gangwani)

JUDGMENT

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

Applicants who belong to SC community seek promotion to the posts of Labour Enforcement Officer (LEO) (Central) under Ltd. Departmental Competitive

Examination quota against SC/ST quota posts in 1990 and/or 1995 with consequential benefits. (14)

2. Admittedly the RRs for the said post provide the method of recruitment as 75% by direct recruitment and 25% by promotion (20% by LOCE and 5% by purely promotion from amongst Grade I and II on the basis of seniority). Prior to the DP & T's OM dated 25.4.89 (Annexure-II), where the direct recruitment element did not exceed $66\frac{2}{3}\%$, no reservation was to be made in promotion. By the afore-said /OM dated 25.4.89 reservation in posts filled by promotion was made applicable to all grades/services in which the direct recruitment element did not exceed 75%. These instructions took effect from the date of their issue i.e. 25.4.89, except where in the case of selections made through LOCE, the relevant exam. had already been held. The first LOCE for LED (C) was held in 1986 before issue of the OM dated 25.4.89 and hence no reservation was needed to be provided in the same. The result of the 1986 Exam. was ~~also~~ declared after prolonged litigation in 1990. As against 21 posts as notified, only 18 posts could be filled and the remaining 3 posts remained unfilled. Because of the pending court cases, no examination could be held for filling up the posts which became available between 1986-90. Meanwhile 4 more posts became available for filling up by departmental exam. in the years 1987 & 1988. These 7 posts (3 being backlog posts for 1986 exam. and 4 posts which became

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available for filling in 1987 and 1988) were to be filled up as per the then prevalent rules.

3. Notice was issued for holding the second LDCE in 1990 in which 16 posts had to be filled which included the aforesaid 7 posts and 9 additional posts.

4. Respondents in their reply have frankly admitted that while issuing the notice for 1990 Exam., the DDP & T's instructions dated 25.4.89 remained unnoticed as a result of which, it was stated, there would be no reservation for the candidates belonging to SC/ST community or any other category, while in actual fact out of 16 posts no reservation was to be provided in the aforementioned 7 posts (which became available prior to 25.4.89), but for the remaining 9 posts reservation needed to be given to 2 SC and 1 ST candidate. The respondents in their reply have regretfully admitted their mistake and proposed to fill up the two SC and one ST post during the next departmental examination.

5. In so far as the 1995 LDCE is concerned, respondents have stated that 3 posts were earmarked for SC candidates and 2 posts for ST candidates. As many as 20 SC candidates and 7 ST candidates appeared in this exam, and even by relaxed standard only two SC candidates were found suitable for appointment as LED (C) and no ST candidate was found suitable for appointment despite relaxation in standards of the examination. In the notice for 1995 Exam., it was clearly mentioned that question Paper No. II was ^a General English ~~Paper~~ and Precise writing ^{Paper} and that

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it would be a qualifying paper and those who failed to qualify in that paper with a minimum of 35% marks would not figure in the merit list and those who failed to qualify in Paper II, their remaining papers would not be evaluated.

6. In this connection we have perused the relevant rules for the LOCE, 1995 notified on 11.7.95. In the Appendix attached to the aforesaid notification it is clearly mentioned that question Paper No. II in General English and Precise Writing would be only a qualifying paper and those who failed to qualify in this paper with a minimum of 35% marks would not figure in the merit list. The marks sheet (Copy at Annexure-B) shows clearly that out of the 4 applicants only one secured above 35% marks in Paper No. II, but even by relaxed standard, his performance in other papers was not good enough to secure him a place against a reserved post.

7. Respondents have correctly pointed out that consideration of the claim of the applicants at this stage for promotion on the basis of 1990 LOCE would invite objections from many other SC/ST candidates who may also claim that they would have also appeared in LED (C) LOCE, 1990 if they had known that there was any reservation for SC/ST in that examination, but have emphasised that they have no objection to hold another LOCE for filling up the backlog of 1990 exam.

8. Nothing the aforesaid statement of respondents, we see no reason to interfere in the OA which is accordingly dismissed. No costs.

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

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