

Central Administrative Tribunal
Principal Bench, New Delhi.

O.A. No. 520/94
M.P. No. 690/94

(2)

New Delhi this the 16th Day of March, 1994.

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman
Hon'ble Mr. B.N. Dhoundiyal, Member (A)

1. Sh. K.P. Singh Chauhan,
S/o Sh. Jai Pal Singh,
R/o PWD-4, Delhi Admn. Flats,
Timarpur, Delhi.
2. Sh. J.R. Yadav,
S/o Sh. R.D. Yadav,
R/o Flat No. 5, CPWD Enquiry Office,
Netaji Nagar, New Delhi.
3. Sh. M.K. Shivhare,
S/o Sh. J.N. Shivhare,
R/o Flat No. 4, CPWD Enquiry Office,
Sarojini Nagar, New Delhi.
4. Sh. S.K. Sood,
S/o Sh. M.C. Sood,
R/o Flat No. 2, CPWD Office Enquiry,
Netaji Nagar, New Delhi.
5. Sh. J.S. Yadav,
S/o Sh. M.S. Yadav,
R/o 15, Dalhousi Square,
Sector II, DIZ Area,
New Delhi.
6. Sh. S.K. Sharma,
S/o Sh. R.D. Sharma,
R/o B-20, Delhi Admn. Flats,
Timarpur, Delhi.
7. Sh. Uma Shankar Sharma,
S/o Sh. Ram Nath Sharma,
R/o Qr. No. 1, Enquiry Office,
Tis Hazari Courts, Delhi.
8. Sh. Rakesh Chanakya,
S/o Sh. Raghonath Sahai,
R/o Y-244, Sarojini Nagar,
New Delhi.

Applicants

(By advocate Sh. M.K. Gupta)

versus

1. Union of India
through the Secretary,
Ministry of Urban Development,
Nirman Bhawan, New Delhi.

(3)

2. The Director General of Works,
Central Public Works Department,
Nirman Bhawan,
New Delhi.

3. Union Public Service Commission,
through its Secretary,
Dholpur House,
Shahjahan Road,
New Delhi.

Respondents

ORDER (ORAL)
delivered by Hon'ble Mr. Justice S.K.Dhaon, Vice-Chairman

The Union Public Service Commission (the Commission) on 1.8.1992 notified its intention to hold a Limited Departmental Competitive Examination for promotion of Junior Engineers(Civil) to the post of Assistant Engineers Grade (Civil). The notification also disclosed the intention of the Commission to hold a combined examination for Junior Engineers (Electrical). In this, ^{case} we are only concerned with the examination for the Junior Engineers(Civil). The Commission notified that there were 227 vacancies to fill up the posts of Assistant Engineer(Civil). 69 vacancies were reserved for scheduled caste candidates and 34 vacancies were reserved for scheduled tribe candidates. It was clearly notified that "the above numbers are liable to alteration". The applicants and others appeared in the examination. According to the applicants, sufficient number of SC/ST candidates had not qualified and, therefore, the number of vacancies ear-marked for them could not be filled up. It is applicants' own case that so far general candidates were concerned, the Commission published a list of successful candidates on merit and from that list the candidates were appointed so as to exhaust the vacancies ear-marked for general candidates. It appears that from the remaining

84

vacancies ear-marked for the Schedule Caste/
Schedule Tribe, general candidates who appeared
at the aforesaid examination are to be appointed.
The applicants feel aggrieved and hence this O.A.

The applicants' contention is that the exercise of filling up the requisite number of vacancies initiated by the Commission came to an end with the declaration of the result of the examination. After the declaration of the result, the requisite number of general candidates had been appointed. The candidates who had qualified for SC/ST category had also been appointed. To put it differently, the argument is that even though some vacancies notified for the examination for 1992 so far as SC/ST categories were concerned, remain unfilled, the respondents are acting illegally in transferring those vacancies from SC/ST to the general category. According to the applicant the whole exercise having come to an end and there should be a fresh examination.

Having given a thoughtful consideration to the matter, we are not inclined to agree with the submissions made. It is to be presumed that the remaining vacancies which were earlier ear-marked for SC/ST candidates would be given to the general candidates strictly in accordance with the list prepared by the Commission on merit. We make it clear that the respondents shall not make any appointment of any candidate who is not included in the list prepared by the Commission.

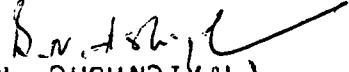
Reliance is placed by the learned counsel for the applicant upon the case of State of Bihar and Anr. Vs. Madan Mohan Singh & Ors. (1994(1)SLC(SC)153).

Say

(5)

That was a case where 32 vacancies had been notified and 129 candidates had been empanelled. All the 32 vacancies had been filled up. Thereafter, an attempt was made by the department concerned to create more vacancies and fill up additional vacancies from the candidates who had appeared in the earlier examination and particularly from amongst the empanelled candidates. Such an action was struck down by the Supreme Court on the ground that it was not permissible as the rights guaranteed to under Articles 14 & 16 to others would be violated. This case is clearly distinguishable.

This application has no substance and is dismissed summarily.


(B.N. DHUNDIYAL)
MEMBER (A)


(S.K. DHAON)
VICE CHAIRMAN

/vv/