

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

OA.No.979 of 2000

New Delhi, this 26th day of March 2001

HON'BLE SHRI KULDIP SINGH, MEMBER(J)  
HON'BLE SHRI M.P.SINGH, MEMBER(A)

Vivek Mina  
S/o Late Shri B.R.Mina  
R/o BG-3/1-C Paschim Vihar  
New Delhi-110063

...Applicant

(By Advocate: None present)

versus

1. Union of India,  
Through the Secretary  
Ministry of External Affairs  
South Block  
New Delhi

2. The Director  
Ministry of Personnel, Public  
Grievances and Pensions  
(Department of Personnel & Training)  
North Block  
New Delhi

... Respondents

(By Advocate: Shri V.S.R.Krishna)

ORDER(oral)

By Shri Kuldip Singh, M(J)

The applicant, who belongs to Scheduled Tribe category, has filed this OA whereby he claims that his representation has been unlawfully rejected by respondents. Challenging the same, the applicant has prayed for the relief to direct the respondents to fix his seniority in the grade of Section Officer with effect from 14.11.1996, i.e. the date the select list dated 14.11.1996 was issued by respondent no.1.

2. Facts in brief are that the applicant was recruited as Assistant and he joined the Ministry

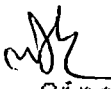
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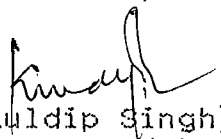
of External Affairs (MEA, for short) on 8.1.1988. He became eligible for being considered for the post of Section Officer on 1.7.1996, i.e. after completion of 8 years of qualifying service. The grievance of the applicant is that in the year 1986-87 and 1987-88 vacancies for promotion of ST candidates were available with the department and as no ST candidate was available, in place of ST candidates, SC candidates were promoted. Now he claims that those vacancies which were given to the SC candidates are still available and as a representative of ST candidates the applicant should have been given promotion against those vacancies which should have been filled up as if the vacancies of ST were still available and the applicant should have been promoted to the post of Section Officer. The applicant had also made a representation which was referred to the DOPT and on the advice of the DOPT the respondents have rejected the representation of the applicant. DOPT vide Annexure R-5 had advised that in terms of the orders issued by the DOPT earlier in implementation of Supreme Court judgement, the objective is to ensure that representation of each reserve category does not exceed the percentage prescribed for it. If on earlier occasion ST slots were exchanged by SCs, it has lead to excess representation of SCs and short representation of STs. Excess representation of SCs is required to be adjusted against future vacancies as laid down in DOPT's

for

OM dated 2.7.1997 so that the representation could be brought down to the prescribed percentage. Thus the O.M. issued by the DOPT dated 2.7.1997 was in conformity with the judgement of the Supreme Court in R.K. Sabharwal's case. So, the applicant cannot have a right to be promoted against the vacancies which fell short of ST quota. Since there was no vacancy in ST category in 1997-98, the applicant could not be promoted. But in 1998-99 when a vacancy arose in the Section Officer's grade, the applicant was promoted against that vacancy.

3. In view of the above discussion, the impugned order does not call for any interference. The OA is devoid of merit and the same is accordingly dismissed. No order as to costs.

  
(M. P. Singh)  
Member(A)

  
(Kuldip Singh)  
Member(J)

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