

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

OA.1244/88

Date of Decision:19.10.93

Shri Jagannatgh Jayaji Kamod Applicant

Versus

Union of India and others Respondents

For the applicant None

For the respondents Shri P.P. Khurana, Counsel

CORAM:

Shri C.J. ROY, Member(J)

Shri P.T. THIRUVENGADAM, Member(A)

JUDGEMENT(Oral)

(delivered by Hon. Member(A) Shri P.T. THIRUVENGADAM)

This is an old matter coming since 1988. In spite of two adjournments given to the applicant since 30.9.93, neither the applicant nor his counsel was present. When the matter came for hearing today, again none was present on behalf of the applicant. Hence, we proceed to dispose of this O.A. on the basis of pleadings on record and submission made by the counsel of the respondents.

2. The applicant in this OA is an employee of Government of India Press. He was initially appointed as LDC on 2.9.57 and after promotions was functioning as Junior Head Clerk from the year 1979. Further promotion for the post of Junior Head Clerk has to be made to the post of Senior Head Clerk by way of selection. The applicant claims that he is at Sl.No.2 in the eligibility list for consideration for promotion. The incumbent at Sl.No.1 of the seniority list is presently facing departmental enquiry and

therefore, he is not eligible for promotion to the next higher post of Senior Head Clerk. The applicant fulfils the minimum eligibility criteria as prescribed therein for consideration for promotion. The applicant apprehends that the vacancy of Senior Head Clerk ^{is} ~~was~~ contemplated to be filled up by a Scheduled Tribe(ST) candidate, whose seniority position is at Sl.No.13 of the seniority list at the relevant time. This OA has been filed with the prayer for following reliefs:

(a) The contemplated action of R-1 and R-2 in promoting Shri Lakshman Mahto(R-3) from the post of UDC to the post of Senior Head Clerk be declared illegal, unconstitutional and invalid.

(b) The action of R-1 and R-2 in drawing the said one vacancy in the post of Sr.Head Clerk as belonging to ST category be declared unconstitutional, illegal and contrary to the brochure.

(c) The R-1 and R-2 be directed to consider the case of the applicant for promotion to the next higher post of Senior Head Clerk with retrospective effect and the he be declared to be entitled for all consequential benefits.

3. The main grounds relied upon by the applicant are:-

(a) The permissible limit for reservation for ST category is 7.5% of the total vacancy. If this criteria is applied in the present case where there are only 4 posts of Senior Head Clerk, none of the posts could be categorised as belonging to ST category.

(b) Since there is only one vacant post of Senior Head Clerk, it cannot be categorised as one belonging to ST category and it has to be carried forward to the next recruitment year.

(c) The contemplated ^{ed} ~~ing~~ action is contrary to the recruitment regulation as much as the respondents have to first consider the case of Junior Head Clerks and Head Computers with three years regular service in the grade. It is only in case, the respondents are unable to find a suitable person amongst the first category ^{they have} ~~having~~ to go in for the second category i.e UDC, and

(d) Even granting the vacancy has to be filled up by a ST candidate, the zone of consideration cannot go beyond five times the

number of vacancies, and, if no ST candidate is available within the extended field of choice (of 5 times the number of vacancies), the vacancy has to be dereserved.

4. In the counter filed by the respondents, it has been ^{brought} out that 40 point roster has to be maintained as per the instructions and the roster takes care of the 15% and 7.5% reservation for Scheduled castes and Scheduled tribes respectively at the time of filling up of the vacancies. As per the roster point No.4 is to be filled up by a ST candidate and at the time when this point No.4 had to be filled, there ^{was} already a carry over of the SC point and hence, the reservation meant for ST was carried forward to point No.5. As per the terms and conditions of the recruitment rules, the first available ST candidate, who fulfils the required conditions for promotion to the post of Head Clerk (Senior) has to be considered at the time of filling up the roster point No.5. The promotion rules also incorporates that for promotion to the posts of Senior Head Clerk, Junior Head Clerk/Head Computer with 3 years regular service in the grade are to be considered. If such candidates are not available, UDC with 8 years continuous service in the grade are eligible for consideration. Thus, in this case where roster point No.5 has to be filled up by a ST candidate, the senior most ST candidate being an UDC fulfilling the minimum years of service in the grade was being considered for promotion. As regards the extended field of eligibility, the relevant instructions have been quoted as under:

"Extract of page No.115 of Brochure on Reservation for Scheduled Castes and Scheduled Tribe in Services (7th Edition).

(c) Promotions by selection in Group C and D (Class III and IV) appointments

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As indicated in para 2.1 (iii) (b), there is a reservation at 15 percent and 7-1/2 percent of the vacancies for Scheduled Castes and Scheduled Tribes respectively in promotions made by selection in Group C and D (Class III and IV) posts in grades or services in which the element of direct recruitment if any, does not exceed 66-2/3 percent.....

In the separate Select lists drawn up for (i) Scheduled Castes and (ii) Scheduled Tribes, Officers belonging to Scheduled Castes and Scheduled Tribes as the case may be, will be adjusted separately amongst themselves and not along with other officers and, if selected, they should be included in the concerned separate select list, irrespective of their merit as compared to other officers. It is needless to mention that officers not belonging to Scheduled Caster and Scheduled Tribes will not be considered whilst drawing up separate select lists for Scheduled Caster and Scheduled Tribes, for being considered for inclusion in the aforesaid separate select lists, the zone of consideration for Scheduled Castes and Scheduled Tribes, as the case may be, if the general select list, the zone of consideration is 5 time the number of vacancies likely to be filled, the zone of consideration for the separate list for Scheduled Castes will also be 5 times the number of reserved vacancies for them, and likewise for Scheduled Tribes, subject to of course to the condition that officers coming within such zone are eligible by length of service etc. as prescribed, for being considered for promotion".

5. We have heard the learned counsel for the respondents and perused the documents on record. It is manifest from the above, that the zone for consideration for separate list for reserved community candidates will also be 5 times the number of reserved vacancies for them subject to the condition that the candidates coming within such zone are eligible in terms of length of service etc. as prescribed for being considered for promotion to the next higher post in accordance with rules by the department. After going through various circulars and brochures, we find that the points raised by the applicant have been met in the counter filed by the respondents. In the

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circumstances, we feel there is no merit in this application for our interference. We therefore dismiss this OA as devoid of merit with no order as to costs.

P. J. Raji

(P.T. THIRUVENGADAM)

MEMBER(A)

19.10.1993

W. S. Roy

(C.J. ROY)

MEMBER(J)

19.10.1993