

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/01503/2014

HYDERABAD, this the 1st day of February, 2021

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member



D. Srinivasa Vara Prasad
S/o Padmanabhaiah,
Aged about 42 years,
Occ : Senior Technician,
Southern Region Farm Machinery Training And
Testing Institute, (S.R.F.M.T and T.I.),
Garladinne, Ananthapur District.

...Applicant

(By Advocate : Mr. M.Venkanna)

Vs.

- 1.The Union of India represented by
Its Secretary, Government of India,
Ministry of Agriculture,
Department of Agriculture & Cooperation,
Krishi Bhawan, New Delhi – 110001.
- 2.The Director, Southern Region Farm
Machinery Training and Testing Institute,
(S.R.F.M.T and T.I.),
Garladinne, Ananthapur District.

....Respondents

(By Advocate : Mr. V. Vinod Kumar, Sr. CGSC)

ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:



2. The OA is filed by the applicant for a direction to the respondents to consider his case for promotion as Technical Assistant against SC vacancy.

3. Brief facts of the case are that the applicant, who belongs to the SC community, was appointed as a Tube Well Operator in the respondents organisation in 1997 and was promoted as a Senior Technician on 18.6.2009 with Grade pay of Rs.2400. In the seniority list of Senior Technician published on 1.1.2012, applicant was shown at serial No.3. A representation was submitted by the applicant on 29.10.2012 pointing out that since the SC point in the roster register was converted to UR point in the UDC cadre without approval of the competent authority, a similar conversion of the next roster point in the Training Assistant (TA) Cadre be done and consider him for promotion to the said cadre. Respondents replied that the conversion of the roster point had to be done in view of the introduction of the post based reservation roster system. Applicant has also stated that cadre restructuring has created further complications and several representations made to consider him for promotion to the cadre of TA following the yardstick followed in UDC cadre, did not yield any worthwhile results and hence, the OA.

4. The contentions of the applicant are that, Article 16 (4A) of the Constitution of India has not been followed. The CConstitutional provisions

in respect of reservation have not been adhered to. No accelerated promotion from the reserved category has been affected in the respondents organization. Representations submitted have not been responded to. As per 1995 Recruitment Rules, selection to the vacancies of TA post are 50% from the DR quota and rest 50% from the feeder cadre of the Sr. Technician cadre. From 1988 to 2006, only one SC candidate was promoted as per the replacement register whereas there should be at least 2 replacement vacancies to be filled up.



5. Respondents, *per contra* state that as per DOPT memo dated 2.7.1997 the vacancy based roster register has been replaced by Post based roster and hence, appropriate action was taken in the UDC cadre referred to by the applicant. Applicant was advised to seek clarification vide letter dated 27.4.2015, but the applicant did not avail of the opportunity. Recruitment Rules were properly followed. Restructuring is a policy matter and the applicant has been a beneficiary of the policy. Applicant was invited to inspect the roster register but the applicant did not come forward.

Applicant filed a rejoinder wherein he reiterated his contention to grant him promotion in UR vacancy arising due to the retirement of Sri George Babu by identifying it as an SC Point. Converting the SC point into UR point in the UDC cadre by the respondents is incorrect. The UR vacancy can be filled by SC or an UR candidate. Even in the vacancy that arose on 29.05.2015, SC candidate was not selected. Records are tampered. Applicant states that he has reduced his grievance to writing on 21.1.2015

and therefore, he expects a written reply and no need to be heard in person about his grievance.

6. Heard both the counsel and perused the pleadings on record.



7. I. The dispute is about promoting the applicant to the prospective vacancy of Training Assistant (TA) that would arise by the retirement of a UR candidate by converting it to as an SC point as was done in the UDC cadre.

II. We have gone through the details and found that the respondents with the advent of the post based register as per DOPT letter dated 2.7.1997 replacing the vacancy based roster register, the roster point referred to by the applicant in the UDC cadre was indicated as UR point. The change from vacancy based roster to the post based roster is in accordance with the Sabarwal judgment of the Hon'ble Supreme Court. Therefore, the action of the respondents is in accordance with DOPT instruction and is in accordance with law. Besides, the applicant does not belong to the UDC cadre and any comparison with a different cadre to seek relief is neither permitted under the rules nor under law, since the cadre management varies from cadre to cadre.

III. In regard to filling up the post of TA, the said post did not exist when the 1985 Recruitment Rules were in vogue. Later, in 2007 new recruitment rules were framed wherein it was mentioned that 50% of TA posts shall be filled from Technician cadre with 5 years regular service, failing which by deputation and the rest 50% by DR. The Technician post

was re-designated as Sr. Technician in memo dated 16.12.2014 and mentioned in the RR as per Annexure-5 of reply statement.



IV. Besides, the reservation roster expands or contracts depending on the creation and abolition of posts. In 1992, the TA cadre strength increased to 5 by the creation of 3 new posts. The changes in the RR coupled with the vacancy based register getting replaced by the post based register, increase in posts etc. do bring about changes in the roster points. Accordingly, the roster points have to be identified and filled up. The respondents have refuted the contention of the applicant that only one SC candidate was selected from 1998-2006 though 2 SC points existed. Respondents have invited the applicant to inspect the roster register but the applicant did not avail of the opportunity. In order to allay his doubts the applicant was entertaining, there could be no better way for the applicant than to inspect the register first hand so that any discrepancy if found, could have been taken up with documentary evidence rather depending on the respondents' correspondence, as claimed by the applicant in the rejoinder.

V. Moreover, restructuring is a policy matter and the Tribunal has a very narrow scope in interfering in policy matters as per law, unless it is malafide. The applicant benefited by restructuring when the post of Test Operator cum Mechanic Post was merged with Trained Operator. The applicant has not brought out any material to establish that the restructuring was malafide for the Tribunal to have a relook at it.

VI. Applicant was informed on 19.8.2013 that the vacant posts would be filled up as per prevailing rules and regulations. The next vacancy in the TA cadre was coming up on 29.5.2015. Letter dated 27.4.2015 was



given to the applicant to get the doubts clarified but it is reported that no further correspondence was received. Applicant stated that the letter dated 27.4.2015 is questionable but on what grounds it is not spelt out. Applicant made general statements that records have been tampered, corrections in selections etc., which was vehemently denied by the Ld. Counsel for the respondents and he has contended that the very fact that the applicant did not verify the roster register, though invited to inspect the register and did not seek further clarifications about any doubts he had in regard to the dispute, goes to prove that the applicant is alleging things, which do not exist. True, the applicant could have inspected the roster register, sought further clarifications, obtained details, if required, under RTI Act., etc if he had a case to prove his point. Efforts in this direction appear to have not been made to the extent required.

VII. Thus, as seen from the above, it is evident that the action of the respondents is as per rules and as per the policy framed by the respondents from time to time in tune with the constitutional requirement in terms of reservations and as per prevailing law. Applicant was also invited by the respondents to inspect the roster register and to clear his further doubts, which explains for the openness adopted in the matter. Promotions are based on many factors, like vacancies, eligibility, RRs etc. An employee cannot prescribe a method to be followed for his own benefit. Uniformity in application of rules is the cornerstone of prudent administration. The learned Counsel for the applicant prayed that the applicant be considered for promotion at the earliest as per rules in the upcoming vacancies. This is

a fair request and therefore, the respondents are directed to note and act accordingly.

VIII. With the above direction, the OA is disposed of with no order



as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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