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In the Central Administrative Tribunal

Principal Bench: New Delhi

OA No.250/87

Date of decision: 24.08.1992.

Shri P.L. Chawla

...Petitioner

Versus

Union of India

...Respondents

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman

The Hon'ble Mr. I.K. Rasgotra, Administrative Member

For the petitioner

Shri B.S. Charya,
Counsel.

For the respondents

Shri A.K. Behra, proxy

counsel for Shri P.H.
Ramchandani, Senior
Counsel.

Judgement (Oral)

(Hon'ble Mr. Justice V.S. Malimath, Chairman)

The grievance of the petitioner in this case is regarding non-inclusion of his name in the select list of Grade-I officers of the C.S.S. considered fit for appointment to the selection grade of the C.S.S. for the year 1986. That the petitioner was within the zone of consideration and that his case was duly considered by the DPC is not disputed. The petitioner has a grievance to make in regard to the procedure followed in the matter of preparing the select list. In regard to this aspect of the matter we have rendered a judgement in Smt. S.S. Kapoor Vs. Union of India

(OA No.249/87) wherein we have approved the procedure

followed in the matter of preparing the select list of the year 1986.

2. Shri B.S. Charya, learned counsel for the petitioner, however, submitted that the proper procedure to be followed in this case was to determine the number of persons to be included in the select list. About that, there is no dispute that the number has rightly been determined as 37. After that had been done, it is his case that the cases of Scheduled Castes and Scheduled Tribes candidates who are at serial Nos. 1-37 in the seniority list of eligibility officers should be considered. According to instructions at Annexure A-4 if such candidates from the Scheduled Castes and Scheduled Tribes as are enough senior/ to come within the zone of consideration are not found to be unfit for promotion their names should be included in the Select List. However, on this principle he says that the number of persons who were eligible for being included in the select list of 37 from among the SC/ST would be five. He, therefore, maintains that there would be 32 posts which were available for competition among the general merit candidates. But what has actually been done is to limit the competition among the general merit candidates to only 12 vacancies. This according to him is not correct.

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3. Rule 3 (2) of the C.S.S. (Promotion to Grade I and Selection Grade) Regulations, 1964 reads as follows:-

"(2) The field of selection shall ordinarily extend to three times the number of officers to be included in the Select List, provided that if the required number of officers of the requisite standard are not available in the field so determined, the field may be enlarged to the extent considered necessary by the Selection Committee."

Rule 10 of the Regulations, which is relevant, reads as follows:-

"(10) The Selection Committee shall classify such of the officers included in the field of selection as are considered fit for appointment to the Selection Grade as 'outstanding', 'very good' and 'good', on the basis of merit.

NOTE: While considering the cases of officers belonging to the Scheduled Castes and Scheduled Tribes, the Selection Committee shall be guided by such instructions as may be issued by the Department of Personnel and Administrative Reforms in the Ministry of Home Affairs from time to time."

Annexure A-4 contains the instructions contemplated by Rule-10. Relevant portion of paragraph-2 of the

9

same may be extracted as follows:-

"2. In promotion by selection to posts within Class I, which carry an ultimate salary of Rs.2,000 per month, or less, the Scheduled Castes/Scheduled Tribes officers, who are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the Select List has to be drawn up, would be included in the list provided they are not considered unfit for promotion. Their position in the select list would, however, be the same as assigned to them by the Departmental Promotion Committee on the basis of their record of service. they would not be given, for this purpose, one grading higher than the grading otherwise assignable to them on the basis of the their record of service."

The clear effect of the rule and the instruction contained therein is to direct firstly to determine the number of persons to be included in the select list. The zone of consideration has to be determined by taking into consideration three times the number of persons to be included in the select list. As in this case the persons to be included in the select list were 37, the zone of consideration was 111 candidates. As out of these candidates some were not eligible, the zone of

10

consideration was 111 candidates. As out of these candidates some were not eligible, the zone of consideration had to be restricted to 98 candidates.

It is necessary to bear in mind that the benefit that has been given to the members of the SC/ST in the matter of promotion to the cadre in question is not by reserving any percentage of the vacancies in favour of the SC/ST, but the benefit is sought to be conferred on the members of the SC/ST falling within the zone of consideration provided they are not unfit for promotion. If they are not unfit for promotion they automatically get an entry in the select list to the extent of the number of persons to be included in the select list. Once that is done, the remaining number of positions that would be available for the general category for being included in the Select List. In this case it was ascertained that 25 candidates belonging to SC/ST within the zone of consideration of 98 candidates were found entitled to be included in the select list. There being 25 persons from among the SC/ST qualified to be included in the Select List it follows that there were 12 positions which could be filled up by general merit.

We, therefore, have no hesitation in holding that the procedure followed in preparing the select list was right. It is not right to say that so far as the members of the SC/ST are concerned they were entitled to inclusion in the select list only to the extent

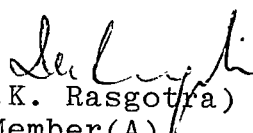
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they are within the number of 37 vacancies. We, therefore, do not see any good ground to accept the first contention of the petitioner.

4. The next contention of Shri B.S. Charya is that there was no Establishment Officer on the DPC. He, therefore, submitted that the constitution of the DPC which made the 1986 selection is illegal and improper, as it is prepared by the DPC which is not complete. The learned counsel, Shri A.K. Behra, appearing for the respondents placed before us the original proceedings of the DPC. On perusal, we are satisfied that the Establishment Officer was on the DPC and that he did participate in and sign the proceedings. We are, therefore, satisfied that there is no substance in this contention either.

5. A faint attempt was made to complain about inclusion of Shri H.K. Verma in the Select List. It is necessary to point out that there are no averments in this behalf in the pleadings. Hence we would not be justified in entertaining the contention which has no foundation in the pleadings.

6. For the reasons stated above, this petition fails and is dismissed. No costs.


(I.K. Rasgotra)
Member(A)


(V.S. Malimath)
Chairman

August 24, 1992.

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