

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

R.A. 171/89 In

O.A. No. 1449/89

199

T.A. No.

DATE OF DECISION 25-9-1990

Shri D. S. Rana

Petitioner

Advocate for the Petitioner(s)

Versus

Union of India & Another

Respondent

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. S.P. Mukerji, Vice-Chairman (Admv.)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? */No*
4. Whether it needs to be circulated to other Benches of the Tribunal?

(Judgement by Hon'ble Mr. P.K. Kartha, J.C.)

This petition has been filed by the original respondents in OA-1449/89 which was disposed of by the judgement of this Tribunal dated 19.9.1989. The original applicant, who was working as Inspector of Works (Afforestation) in the Northern Railway, had filed OA-1449/89 praying for the following reliefs:-

- (i) The letter of the respondents dated 2.6.89 (Annexure A-1) insofar as it amounts to alteration of the recruitment rules and minimum qualifications as prescribed vide letter dated 28.8.1988 (Annexure A-2), be quashed;
- (ii) the respondents be directed to call only those candidates who had applied upto 30.9.88 and had fulfilled the requisite qualifications as per letter dated 28.8.1988 for promotion to the post of Assistant Engineer (Horticulture) by selection;

- (iii) the respondents be directed not to reserve the post of Assistant Engineer (Horticulture) for Scheduled Caste and Scheduled Tribe candidates because this is the only one post in the cadre; and
- (iv) the respondents be directed to promote the applicant on ad hoc basis till regular selection is made."

2. The Tribunal came to the conclusion that the applicant and S/Shri Madan Singh and Hari Kishan Sharma, should be considered for promotion in accordance with the unamended rules dated 26.8.1986. The respondents were, therefore, directed to consider their suitability in accordance with the said rules by holding fresh selection, as indicated above, within a period of three months from the date of communication of the order. The application was disposed of at the admission stage with the above directions.

3. The petitioner has stated that an error has crept in in the operative part of the judgement to the extent that the direction to hold a fresh selection was unnecessary and it was not in consonance with the facts of the case. When OA-1449/89 came up for admission on 25.7.1989, it was recorded as under:-

"We understand that a written test for selection has already been held on 30.5.1989 in which the applicant and two others have appeared. The result of the written test has not been announced as yet. After the result is announced, there will be viva voce test before final selection. While the respondents may proceed with the process of selection, we hereby direct the respondents not to announce the final result of the selection till 7.8.1989 when the matter will come up for admission before us".

4. The petitioner has also drawn our attention to the additional affidavit filed on 31.8.1989 on behalf of the respondents, wherein it was stated that the applicant and S/Shri Madan Singh and Hari Kishan Sharma had appeared at the selection.

or

5. The petitioner has also stated that after the conclusion of the arguments, the Counsel for the respondents made a request that the result of the selection which had been withheld by the order of the Tribunal dated 25.7.1989, be allowed to be made public.

6. In the light of the above, the petitioner has prayed that the direction in the operative part of the judgement dated 19.9.1989 be deleted as it does not reflect the correct factual position.

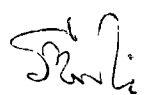
7. We have gone through the original records of the case and have considered the aforesaid submissions. We find that the Tribunal had noted in the order sheet dated 25.7.1989 that the written test for selection had been held on 30.6.1989 in which the applicant and two others had appeared. There is also an averment to this effect in the additional affidavit filed by the respondents on 31.8.89. In view of this, we agree that the submission made by the petitioner that the direction to hold a fresh selection, as contained in the operative part of the Tribunal's judgement dated 19.9.1989, is unnecessary. Accordingly, in para.9, line 2, of the judgement, the following words have been omitted in the original copy of the judgement:-

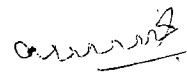
"by holding a fresh selection as indicated above, within a period of three months from the date of communication of this order."

8. Accordingly, the second sentence of para.9 will now read as follows:-

"The respondents are directed to consider their suitability in accordance with the said rules."

9. The petition is disposed of on the above lines. Let a copy of this order be sent to both the parties.


 (S.P. Mukerji)
 Vice-Chairman (Admv.)


 (P.K. Kartha)
 Vice-Chairman (Judl.)