

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI

O.A. No. 1884/90  
T.A. No.

199

DATE OF DECISION 24.12.1991.

Shri Shri Chand

Petitioner Applicant

Shri G.K. Aggarwal

Advocate for the Petitioner(s) Applicant

Versus

Union of India through Secy.,  
~~Deptt. of Defence Research Dev.~~ Respondent& Scientific Adviser to Defence Minister and D.G.  
~~Defence Research & Dev. & App.~~ Advocate for the Respondent(s)

Shri K.C. Mittal,

Advocate for the Respondents

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

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

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

(Judgement of the Bench delivered by Hon'ble  
Mr. P.K. Kartha, Vice-Chairman)

We have heard the learned counsel for both the parties on the grievance of the applicant that he should have been appointed as Security Assistant, Grade 'C' in the Office of Director, Defence Institute of Fire Research (Respondent No.2), he being the only eligible Scheduled Caste candidate who had appeared before a Board of Officers which met to select ~~xxx~~ suitable persons as Security Assistant, Grade 'C' of which one was *a* earmarked for the Scheduled Caste community.

2. There is no dispute about the facts of the case. Pursuant to the Daily Order dated 28.3.1990, a Board of Officers met to select three persons as Security Assistants, Grade 'C' of which one was reserved for Scheduled Castes, one for Scheduled Tribes, and one unreserved. The applicant belongs to the Scheduled Caste community and is working as a Chowkidar in the office of Respondent No.2. He, along with four others, was considered for the vacancy earmarked for the Scheduled Caste candidate on 19.4.1990. The Selection Board did not recommend any candidate as suitable for appointment.

3. The respondents sent a fresh requisition to the Employment Exchange on 23.8.1990. By the time the Selection Board met, the applicant became over-aged and he was not called to appear before the Selection Board.

4. On 19.8.1990, the Tribunal passed an interim order to the effect that in case duly selected candidates, pursuant to the interviews held on 19.4.1990 have not been appointed, the respondents shall not readvertise the post of Security Assistant, Grade 'C'. The respondents had readvertised the post before the interim order had been passed. We have been told by the learned counsel for the respondents at the Bar that none has been appointed so far in the vacancy reserved for the Scheduled Caste candidate.

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5. The contention of the applicant is that for a reserved vacancy, if only one person was available who met all the eligibility conditions and did not suffer from a disability, he must be appointed. In this context, he has relied upon the letter dated 4/5 April, 1985 issued by the Office of the Director General of Posts & Telegraphs, according to which, relaxed standards should be applied in the case of candidates belonging to S.C./S.T. categories. Such candidates, if considered not unfit for promotion, should be given grace marks to bring them up to the qualifying standards.

6. The learned counsel for the respondents stated that the aforesaid instructions issued by the P & T Department, do not apply to the instant case, where a Selection Board had met to adjudge the suitability of the candidates sponsored by the Employment Exchange. According to him, the applicant had only a right to be considered and this was done in the instant case.

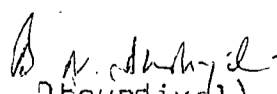
7. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. In our opinion, there is nothing on record to indicate that the respondents have proceeded in the matter out of any ulterior motives or considerations. The suitability of the candidates for appointment was left

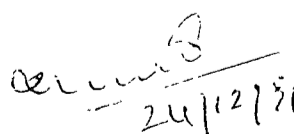
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to be decided by a duly constituted Selection Board whose recommendations cannot be interfered with in the absence of any proven mala fides. The applicant has not substantiated any such mala fides on the part of the members of the Selection Board. There were five candidates in the field of choice and the fact that the Selection Board did not find anyone of them fit for appointment <sup>in the reserved vacancy</sup> cannot be faulted on any legal or constitutional grounds.

8. There is, however, another aspect of the matter. The applicant has by now become over-aged because the process of selection has been stayed due to the interim order passed by the Tribunal on 18.9.1990. In the interest of justice and fairplay, we are of the opinion that the applicant should be given at least two further chances to appear before the Selection Board in case the respondents decide to fill up the post in question reserved for the Scheduled Caste community. The age-limit prescribed for the purpose should be deemed to have been relaxed for that purpose. In case the Selection Board finds him suitable for appointment, he should be offered the post of Security Assistant, Grade 'C'.

9. The application is disposed of accordingly. There will be no order as to costs.

  
(B.N. Dhoundiyal)  
Administrative Member

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