

(14)
~~14~~

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.**

R.A.No.146/90
CCP No.191/90 in O.A.
MP No.2838/90 (No.651/90

Date of order: 5.2.1991.

SHRI VED RAM

APPLICANT

VERSUS

UNION OF INDIA & ORS.

RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER(J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A)

FOR THE APPLICANT : SHRI R.N. SAXENA

FOR THE RESPONDENTS : SHRI O.N. MOOLRI

O R D E R

This order disposes of the following:-

- (i) Review Application No.146/90 filed by the respondents in OA-651/90;
- (ii) CCP No.191/90 filed by the applicant in OA No.651/90; and
- (iii) MP No.2838/90 filed on behalf of the respondents in OA-651/90.

Since all the above are directed against our judgement dt. 14.9.1990 in OA-651/90, the same are proposed to be disposed of by this common order.

2. The facts giving rise to the filing of the above, may be briefly given. The applicant Shri Ved Ram had applied for a group 'D' post against 400 non-technical posts, in response to a notice inviting applications from Schedule Caste and Schedule Tribe candidates. He had indicated himself as a Schedule Tribe candidate in column 8A of the Attestation Form. As a result of the eventual selection, he was selected for one of the posts with his position at 65, in the selection. He was, accordingly, offered a post by the respondents concerned, vide their letter dt. 8.11.89, but on his reporting for joining

(b)

dated 27.8.1990 was also directed to be sent to the D.R.M., Northern Railway, New Delhi besides being provided to the learned counsel for the respondents, Shri O.N. Moolri, for compliance of the same. Shri Moolri, today, has expressed his inability to produce the same, the same have not been provided to him by the concerned department in the office of the respondents. In view of this position, the respondents having failed to provide the requisite record, the inference, in consequence of the documents, in question, having not been made available, would go against the respondents.

Arguments heard. Orders on 14.9.1990.

sd/-
(I.K. RASGOTRA)
MEMBER(A)

sd/-
(T.S. OBEROI)
MEMBER(J)

3. It is in above circumstances that our judgement dt. 14.9.90 was passed, directing the respondents to take the applicant on duty immediately, and also token costs of Rs.1000/- were awarded to him, against which the respondents have filed the Review Application, while the applicant seeks implementation of the judgement, vide the C.C.P. filed by him. The respondents have also filed the above M.P., seeking stay of the operation of the judgement, pending decision of their review application.

4. The main plea taken up by the respondents in the Review Application is that the requisite records have now become available, and as per the same, the applicant himself has made wrong averment, showing himself as a member of Schedule Tribe, even though he was not, and acting upon the particulars given by the applicant in the application, his selection materialised, resulting in the issue of the letter of offer of appointment, which, however, being void ab-initio, has no value in the eye of Law, and therefore, the applicant is not entitled

to be appointed on the post in question.

5. We have heard the learned counsel for both the parties, and have also carefully perused the connected record, including the copy of the application form/attestation form, filed by the applicant, in response to the notice, inviting applications for the post, in question. The notice dt. 8.1.1987 unambiguously mentions that the posts are meant for the members of the Schedule Caste and Schedule Tribe communities and that candidates belonging to general communities need not apply. The applicant, as earlier referred, mentioned himself as a S.T. candidate, which subsequently was found to be otherwise. The learned counsel for the applicant, however, prayed for a humanitarian consideration of the applicant's case, on the ground that he being a member of other backward classes, he could not make a distinction between the SC/ST, and backward classes. He also pleaded that with lapse of over three years by now, from the date of his submission of the application form, and with various trips having been made by him to Karnal and to Delhi, from his native place, which falls in District ETAH(UP), and having incurred a good deal of expenditure in connection therewith, he has by now come to a point of starvation, and therefore, his case deserved to be considered sympathically.

6. The learned counsel for the applicant also pointed out that in case of denial of the prayer to the applicant, he will not be able to get the post applied for, for all times to come, and this would be a very grave and unbearable loss to him. The learned counsel also cited 1989(11) ATLT (High Court) 562 (Arvindakshan Vs. State of Kerala) in support of his contention.

7. The learned counsel for the respondents, while opposing the above contentions put forth by the learned

counsel for the applicant, emphasised that it was the wrong mention of the particulars by the applicant himself, that his selection took place, and in event of his case being accepted, it would amount to rewarding a wrong-doer, besides diminishing one post, meant for SC/ST candidates.

8. We have carefully considered the position put forth by both the sides, as briefly discussed above. We have also perused the citation referred to by the learned counsel for the applicant.

9. A perusal of our judgement dt. 14.9.90 would clearly show that it was the failure on the part of the respondents, to produce the relevant record, which entailed passing of the said judgement. Besides, the respondents can in no way be absolved of their responsibility to properly scrutinise the application. In these circumstances, we find no good ground to review our judgement, to the extent as prayed for, and direct the respondents to take the applicant on duty, against one of the posts, by making a special provision, in the circumstances of the case, or, against any future vacancy. Compliance of this order be ensured as early as possible, but not later than the expiry of one month from the date of receipt of a copy of this order. However, keeping in view the circumstances of the case, the applicant shall not be entitled to any costs of Rs.1000/-, as earlier awarded.

Abhijit
(I.K. RASGOTRA)
MEMBER(A)

5.2.91.
(T.S. OBEROI)
MEMBER(J)