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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA No. 595/90

DATE OF DECISION; 26.7.1990

SHRI RAJEEV KUMAR

APPLICANT

VERSUS

STAFF SELECTION COMMISSION

RESPONDENT

OA No. 2470/89

S/SHRI ASHOK KUMAR AND BRIJESH KUMAR APPLICANTS

VERSUS

STAFF SELECTION COMMISSION

RESPONDENTS

SHRI D.P. AVINASHI

COUNSEL FOR APPLICANTS

SHRI N.S. MEHTA

COUNSEL FOR RESPONDENTS

Coram:

Hon'ble Shri T. S. Oberoi, Member (JOO

Hon'ble Shri I.K. Rasgotra, Member (A)

JUDGEMENT

(Delivered by Hon'ble Shri I.K. Rasgotra, Member(A))

OA No. 2470/89 filed by S/Shri Ashok Kumar and Brijesh Kumar and OA No. 595/90 filed by Shri Rajeev Kumar relate to same points of law and fact and we therefore propose to deal with them through this common judgement. The core of the grievance is that no candidate belonging to general category has been selected for appointment in the results of the examination conducted by Staff Selection Commission for recruitment to the post of Inspectors of Central Excise/Income Tax, Preventive Officers Customs etc. 1987.

2. All the three applicants after having qualified in the written test for the Inspectors of Central Excise/Income Tax examination 1987 held by the Staff Selection Commission (SSC) appeared in the personality test held on 20.4.1988 but they have not been offered any appointment,

as apparently no general candidate has been selected for the said posts by the respondents since the examination was conducted both for general and reserved categories, they have therefore contended that non selection of the general candidates is discriminatory and offends the provision of Article 14 & 16 of the Constitution of India. They have further stated that this action of the respondents has resulted in making them ineligible for government jobs due to age-bar. By way of relief they have prayed the order of the respondents for non selection of general candidates for the posts mentioned in the respective application be quashed and set aside. They have prayed for a direction to the respondents to select the candidate according to the results declared by them in the Employment News dated 19.3.1988.

3. In their reply the respondents have explained that the advertisement given in the Employment News dated 2.5.1987 inviting applications for the Inspectors of Central Excise, Income Tax etc. examination, 1987 did not give any specific number of vacancies, as the same had not been determined by the participating department and advised to the Staff Selection Commission. Again the number of vacancies reserved for Scheduled Castes, Scheduled Tribes, Ex-Servicemen etc. was also not available with the Staff Selection Commission for the same reason. In any case roster for Scheduled Caste/Scheduled Tribe etc. is maintained by the inducting departments. The SSC could not therefore provide exact information in the advertisement calling for applications for the said examination. It is further submitted that through this common examination recruitment is made to the following categories:-

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- i) Inspector of Central Excise in different Collecto-  
rates of Central Excise.
- ii) Examiner (Ordinary Grade) in Customs Houses.
- iii) Preventive Officer (Ordinary Grade) in Customs  
House.
- iv) Inspector of Income Tax
- v) Assistant Enforcement Officers (FERA)
- vi) Grade II of Delhi Administration Subordinate  
Services(DASS)

Out of the above six categories the recruitment to the post of Inspectors of Central Excise and Inspector of Income Tax is made on Zonal basis. The recruitment to the post of Preventive Officer, Examiner and Assistant Enforcement Officer is made on All India basis and recruitment to DASS Gr. II is made on zonal basis but restricted to Delhi Zone only.

In the 1987 examination, the number of vacancies reported in the Madhya Pradesh Zone (to which the applicants belong) and number of candidates recommended for appointment is given below (page 25 of the paper book - OA 2470/89):-

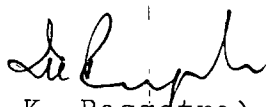
Post	No.of vacancies reported in MP Zone						No.of candidates qualified					
	UR	SC	ST	EXS	PH	TOTAL	UR	SC	ST	EXS	PH	TOTAL
ICE	-	4	13	-	-	17	-	4	10	-	-	14
IIT	15	6	7	1	1	30	12	6	7	1	1	27
ICE : Inspector Central Excise												
IIT: Inspector of Income Tax												

For the Madhya Pradesh Zone nil vacancies were reported for the post of Inspector of Central Excise. As such, the applicants could not be recommended for


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the said post. Further the applicants had secured very low marks in the aggregate (written examination + personality test) and therefore they did not come within the merit list for Madhya Pradesh Zone for the general posts in other categories. Thus they could not be recommended for appointment under general category for the post of Inspector of Income-Tax, Preventive Officer, Examiner and Assistant Enforcement Officer.

4. We have heard the learned counsel of both the parties and considered the rival contentions carefully. It is not the case of the applicants that candidates in the reserved categories have not been recruited in accordance with the provision for reservation made for them; nor for that matter is the legality of the selection in question. The select list is prepared on the basis of the competitive examination and only the top most among the qualifying candidates would find a place in the select list. There were general vacancies available in the categories for which the examination was conducted excepting the Inspectors of Central Excise in MP Zone. Had the applicants' performance been higher, they would have found themselves in the merit list for appointment to posts in other categories like Inspector of Income Tax. This was not so. In the facts of the case we do not see any merit in the applications 2470/89 and 595/90 which are dismissed without any orders as to the costs.

  
(I.K. Rasgotra)  
Member (A)

26/7/90

  
(T.S. Oberoi)  
Member (J)