

5.
11-4-81

(5)
U.A. 124/91

Present : Shri Panna Lal Syngal, counsel for the applicant
Shri Shyam Moorjani, counsel for the respondents

After hearing the learned Advocate, we consider that the question can be disposed of on the short point of the right of the petitioner to be called for the interview as prayed for in the relief clause of the petition. Several other pleas have been taken by both the sides regarding the application having been premature; the applicant being in the safety category and, therefore, the circulars at Annexure-A 2 and A-3 are not applicable to him; and also that the bar regarding the right to be interviewed in terms of securing less than 20% marks in the written examination can be validly imposed, even for Scheduled Caste and Scheduled Tribe candidates.

2. The circular dated 10.9.1985 on which the petitioner relies, states as follows :-

"The matter has been reviewed by the Board and it has been decided that under this scheme only these SC/ST candidates should be considered for ad-hoc promotion who secure a minimum of 20% of total marks in the written test, viva-voce and record of service etc. All other instructions subsequently issued in various letters about the scheme will still be applicable."

3. The petitioner contends that the aggregate of the written test, viva-voce and record of service is to be determined and 20% of it is for the minimum qualification for ad-hoc promotion and since the viva-voce test has not been held in his case, the petitioner's claim for consideration for ad-hoc promotion cannot be refused by the

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respondents. The learned Advocate for the respondents, on the other hand, has contended that in the circular dated 14.9.1990 annexed at A-4, it is clearly stipulated that only those who qualify in the written test, will be called for the interview. There is nothing to show that in the circular dated 10.9.1985, is limited by reviewing this stipulation in the circular dated 14.9.1990. The learned Advocate for the respondents also stated that pre-selection coaching is compulsory for SC/ST categories for safety categories. This, however, does not meet the question why interview cannot be held for Scheduled Caste candidates to let raise the extent of their deficiency which has to be made up by the pre-selection coaching since at that stage, selection has not been finalised. The learned Advocate for the respondents has also stated that the petitioner should have first made a representation against his not being called for the interview and he should have also challenged the specific circular at R-16 by which, if a candidate is not able to make good in the written test, he must not be called for interview and as the petitioner has not done either, the Tribunal ought not to give him relief.

4. As stated earlier, we have decided to settle the dispute on the short question of the eligibility of the petitioner to be called for interview regardless his performance in the written test being deficient on the criterion of less than 20% marks. We find that there is

nothing in the circular cited that renders him ineligible for the interview and, therefore, we direct that the petitioner be allowed an opportunity for being interviewed and his subsequent claim for promotion be decided in terms of the rules and instructions applicable to him in this case. We further direct that this be done within a period of 4 months from the date of this order. No orders as to cost.

Ram Pal Singh
(RAM PAL SINGH)
VICE CHAIRMAN

R. H. Trivedi
(R. H. TRIVEDI)
VICE CHAIRMAN