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Central Administrative Tribunal
Principal Bench

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O.A. No. 2202/91

New Delhi, the 8th day of January, 1996

Hon'ble Shri B.K. Singh, Member (A)
Hon'ble Dr. A. Vedavalli, Member (J)

Shri S.P. Singh,
s/o late Shri Sujan Singh,
Chemist,
National Museum,
New Delhi.

...Applicant

(By Shri B.S. Mainee, Advocate)

Versus

Union of India: Through

1. The Secretary,
Ministry of Human Resources Development
(Department of Culture),
Shastri Bhawan,
New Delhi.

2. The Director General,
National Museum,
Janpath,
New Delhi.

3. The Secretary,
Union Public Service Commissioner,
Dholpur House,
New Delhi.

..Respondents

(By Shri B. Lall, Advocate)

Order (Oral)

By Hon'ble Shri B.K. Singh, Member (A):

This application is filed against the order No. F-1-34/90-CH.5 dated 12.9.1991 vide which the representation of the applicant has been rejected on the ground that the applicant was appointed only on ad-hoc basis to work as Chemist in National Museum till the post of Chemist is duly filled through

Union Public Service Commission & when a regular incumbent joins, the post on selection.

The Tribunal vide its order dated 26.9.1991 passed an interim order allowing the applicant to continue in that post and the same was made absolute vide its order dated 12.3.1992.

The learned counsel for the applicant drew our attention towards the advertisement dated 19.4.1991 at page 14 of the Paper Book (Annexure-IV). It is admitted by both the parties that it is an isolated post and the Hon'ble Supreme Court have categorically laid down the law that there cannot be any reservation in regard to an isolated post. This view was held by the Hon'ble Supreme Court in case of Arti Ray in 1974 followed in case of Chakardhar Paswan v/s. State of Bihar 1988(1) Page 671, that an isolated post cannot be reserved.

Learned counsel for the applicant also argued that if the reservation is made in case of isolated post, it will be a total monopoly of a particular community and the learned counsel for the respondents asserted that if such posts are not clubbed then no reserved category candidate will ever be eligible to be appointed against this post and the post will always remain un-reserved and no member of the reserved category will ever get a chance to be appointed.

We are on a limited issue in this Application i.e. legality of reservation in case of an isolated post.

The reliefs prayed for by the applicant are to the same effect that the advertisement issued on 19.4.1991 reserving an isolated post for member of the scheduled caste is illegal in the light of the judgements of Hon'ble Supreme Court in case of Aarti Ray (1974) followed in

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case of Chakardhar Paswan vs. State of Bihar. This view has also been reiterated by the Tribunal in its judgement dated 24.11.1994 in O.A. No. 52/94. Undoubtedly, the post of Chemist is an isolated post and therefore, there cannot be any reservation in the light of the law laid down by the Hon'ble Supreme Court of India in the aforesaid two judgements.

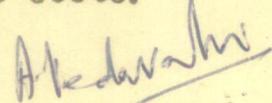
The respondents in O.A. No. 52/94 had gone in S.L.P. and the same was dismissed by the Hon'ble Supreme Court vide their order dated 9/10/1995 and therefore, that judgement has also become final.

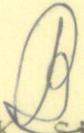
During the course of the arguments, the learned counsel for the parties agreed that the matter can be remitted to the respondents for re-consideration in the light of the judgement of the Hon'ble Supreme Court in case of Arti Ray and of Chakardhar Paswan and also in view of the dismissal of the S.L.P. against the judgement in O.A. No. 52/94 decided on 24.11.1994 which is also of the same department.

The learned counsel for the applicant further prayed that the applicant had worked for a pretty long time and there should be an amendment in the recruitment rules and the applicant should be considered alongwith other eligible candidates.

The matter is remitted to the respondents to amend the recruitment rules and the general instructions issued thereunder in consultation with the U.P.S.C. & D.O.P.&T. Till then the applicant is allowed to continue in the said post.

The O.A. is disposed of accordingly with no orders as to costs.


(Dr. A. Vedavalli)
Member (J)


(B.K. Singh)
Member (A)