

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

(5)

C.A. NO.2431/1991

26.03.1992

Shri A.Pandey

...Applicant

Vs.

Central Water Commission,
Govt. of India & Ors.

...Respondents

CORAM

Shri S.P. Mukerji, Hon'ble Vice-Chairman (A)

Shri J.P. Sharma, Hon'ble Member (J).

For the Applicant

...Shri R.C. Srivastava

For the Respondents

...Shri K.L. Bhandula

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not? No.

JUDGEMENT (ORAL)

(DELIVERED BY SHRI S.P. MUKERJI, HON'BLE VICE CHAIRMAN)

The short point in this application is whether the applicant can claim the vacancy of Incharge Ferro Printer, which has been given to his junior Shri Godhu Singh, who is an SC candidate. It appears that a vacancy of Incharge Ferro Printer arose due to the death of one Shri Joginder Pal. The vacancy fell on the second point ^{of the} roster which happened to be a reserved point for SC candidate. It was offered to one Shri G.Balraj, who is admittedly senior to the applicant. Shri Balraj having refused the vacancy, because he was working at Hyderabad, it was given to respondent No.4 who is an SC candidate, but admittedly junior to the applicant.

(b)

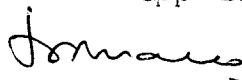
2. We have heard the learned counsel for both the parties and gone through the pleadings carefully. The learned counsel for the applicant strongly argued that the vacancy which was reserved for an SC candidate, had been offered to one Shri Prithviraj Sharma, who is a General candidate, but senior to the applicant. When Shri Sharma also refused to be promoted, it should have been offered to the applicant who was also a general candidate. Instead of that, according to him, the respondents promoted Shri Godho Singh who was willing for promotion as a Scheduled Caste candidate. In support of his argument, the learned counsel drew our attention to the Ministry of Personnel's OM dt.10.4.1989 (Annexure A9), according to which when a Government Servant does not accept a promotion and "If the reasons adduced for refusal of promotion are acceptable to the appointing authority, the next person in the select list may be promoted..." The learned counsel argued that since Shri Prithviraj Sharma, immediately senior to the applicant ~~was~~ a general candidate, refused promotion and the promotion was based only on seniority, the applicant being the next general candidate, the vacancy should have been given to him.

3. We are not in a position to accept the contention of the learned counsel for the applicant. The OM dt.10.4.1989

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(X)

(Annexure A9) is in the context of the persons in the Select List and states that the 'next person in the Select List may be promoted'. In the case before us, even if we accept the contention of the learned counsel that the promotion being entirely on seniority, ~~and~~ the seniority list itself should be taken to be the select list, the fact remains that the vacancy being reserved for SC candidate, the next person would be the next eligible SC candidate and not the applicant who is not a Scheduled Caste or Scheduled Tribe candidate. It is not the contention of the learned counsel for the applicant that the vacancy is not of a reserved point nor is it the contention of the applicant that Shri Godhu Singh does not belong to the SC category. The main point in the learned counsel for the applicant's argument is that ^{since} the vacancy had been offered to a general candidate, it should have been offered to him as a general candidate on the former's refusal. He has not been able to show us any document, by which it can be inferred that at any point of time, any general candidate was offered the vacancy and he refused. The learned counsel for the respondents vehemently ^{challenges} ~~reverts~~ this contention of the learned counsel for the applicant. In the conspectus of above facts and circumstances, we do not find any thing wrong in the promotion of respondent No.4 against the reserved vacancy and dismiss the application without any order as to costs.


(J.P. SHARMA)
MEMBER (J)


(S.P. MUKERJI)
VICE CHAIRMAN

AKS