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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.1614/92

New Delhi: this the 16th December 1997.
HON'BLE MR.S.R.ADIGE VICE CHAIRMAN (A)

HON'BLE DR.A.VEDAVALLI, MEMBER(J)

Shri K.P.Suman,
Office Superintendent-II,
Under Controller of Stores,
Rail Coach Factory, Tilak Bridge,
New Delhi.
.....Applicant.

(By Advocate: Shri B.S.Mainee)

Versus

Union of India through

1. General Manager (P),
Northern Railway,
Baroda House,
New Delhi
2. The Deputy Chief Controller of Stores,
Northern Railway,
Shakurbasti,
Delhi
..... Respondents.

(By Advocate: Shri R.L.Chawan)

JUDGMENT

BY HON'BLE MR.S.R.ADIGE VICE CHAIRMAN(A).

Applicant impugns respondents' order dated 15.6.91 (Annexure-A1) rejecting his representation for placement in the panel for the post of O.S. Gr.II (Rs.1600-2660 RPS) in Northern Railway, which is a non-safety category.

2. Applicant who belongs to SC community was appointed as LDC in Northern Railway on 22.11.75 and was promoted as Sr. Clerk in 1980 and as Head Clerk in 1982. He proceeded on deputation to RCF Kapurthala on 26.12.86 where he was appointed to officiate as Asst. Superintendent on adhoc basis w.e.f. 8.5.87 (Rs.1600-2660).

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3. By letter dated 8.8.89 (Annexure-A2) Respondents initiated selection for the post of BS Gr.II (No.1600-2600). During hearing we were informed that there were 9 vacancies including 6 general; 2 SC and 1 ST. As applicant still retained his lien with Northern Railway, he was also allowed to participate in the selection which consisted of written test and interview. 27 candidates were called for the interview of which 20 appeared. 5 candidates including applicant cleared the written test and were called for the interview, out of whom only 2 were eventually selected including 1 general and 1 SC candidate. Meanwhile upon applicant's permanent absorption in RCF Kapurthala u.s.f. 1.4.90 his lien in Northern Railway stood terminated from that date.

4. Respondents do not deny that applicant cleared the selection (written test plus interview) as per relaxed standard. They however contend that as one of the two candidates who were eventually selected was an SC candidate, and respondents could not exceed the 50% reservation quota in the selection, applicant could not be placed on the panel. Reliance is placed on JT 1996(1) SC 699. Although the aforesaid SC candidate who was selected was admittedly junior to applicant, respondents contend that as he had cleared the selection as per general standards laid down, he had to be preferred over applicant vide Railway Board's letter dated 14.4.83, a copy of which is taken on record.

5. We hold that the respondents' aforesaid

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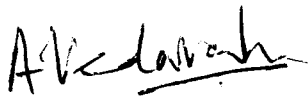
contentions are based upon a misunderstanding of the legal position. The SC candidate who by dint of his performance cleared the selection as per the general standards, will occupy one of the six general vacancies (another general vacancy being occupied by the general candidate) but that will still leave one of the 2 vacancies reserved for SC candidates available for applicant, he having cleared the selection as per relaxed standards, if he is otherwise eligible. The 50% reservation is required to be made applicable in terms of the number of vacancies and not in terms of the individuals occupying those vacancies. The Hon'ble Supreme Court has held in a catena of judgments that where reserved category candidates by dint of merit successfully occupy general vacancies, the quota for reserved category candidates in a particular recruitment year still remains available for being filled up and is not ~~exhausted~~^{exhausted}, subject to the overall prescribed percentage for reserved categories in the cadre not having been reached. In the instant case, as 2 vacancies were reserved for SC and 1 for ST, it is clear that the overall prescribed percentage had not been reached.

6. In the result the OA succeeds and is allowed to this extent that the impugned order dated 15.6.91 is quashed and set aside and applicant will be deemed to have qualified for empanelment as OS Grade II against one of the

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SC vacancies, he having admittedly cleared the impugned selection by relaxed standards, if he is otherwise eligible. No costs.


(DR. A. VEDAVALLI)
MEMBER(J)


(S. R. ADIGE)
VICE CHAIRMAN(A).

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