

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 2320/1992

New Delhi this the 3rd day of November, 1997.

R. Naggar S/O Sita Ram Naggar,
R/O H. No. 7750-51,
Basti Harphool Singh,
Nawab Road Sadar Bazar,
Delhi-110006.

... Petitioner

(By Dr. D. C. Vohra, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Home Affairs,
North Block,
New Delhi-110001.
2. Director General,
Indo-Tibetan Border Police,
Block-II CGO Complex,
Lodi Road, New Delhi-110003.
3. The Secretary,
Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi-110011.
4. The Secretary,
National Commission on SC/ST,
Fifth Floor, Lok Nayak Bhawan,
New Delhi-110003.

... Respondents

(None for Respondents)

O R D E R (ORAL)

Dr. Jose P. Verghese, VC (J) :

The petitioner has approached this court by this O.A. seeking a direction that the petitioner being a reserved candidate, should have been given the benefit of the rules of reservation from the date when the vacancy arose, namely, that of the Senior Administrative Officer. Admittedly, the said vacancy had arisen in December, 1990 (vide reply to para 5.2 by respondents).

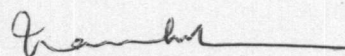
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2. The main contention of the counsel for the petitioner is that since the number of vacancies available in December, 1990 was two, one of the said posts should have been reserved for an SC candidate; the petitioner being eligible and available was not considered at the given time only on the ground that the respondents had wrongly applied a subsequent rule of 1992 instead of making selection for the said post in accordance with the recruitment rules of 1985. It is also submitted at the time of arguments by the counsel for the petitioner that the respondents have promoted the petitioner by an order dated 9.6.1993 and have appointed the petitioner on a regular basis on promotion to the post of Senior Administrative Officer in the pay scale of Rs.3000-4500. The said order also contains two other colleagues of the petitioner, both senior to him in accordance with the seniority list submitted by the petitioner along with the O.A., but the petitioner has been shown at sl. no. 2 indicating thereby the petitioner must have either obtained the benefit of reservation or a better merit while promoting the petitioner on merit.

3. The only question that remains to be considered in this case is that since the petitioner along with his colleagues stands selected by an order dated 9.6.1993 and subsequently obtained promotion to the post of Senior Administrative Officer, whether the petitioner is entitled to promotion with effect from the date when the vacancy arose in accordance with

rules that were prevalent at the given time. The counter affidavit indicates that the same was denied to the petitioner only due to the application of subsequent rule, namely, that of 1992, which obviously is not in accordance with law. The respondents should have applied the recruitment rules of 1985 to the case of the petitioner for promotion, as well as the benefit of reservation in accordance with rules should also have been given to the petitioner. 9

4. The counsel for the petitioner submitted that he had submitted a representation in this regard to the respondents on 27.7.1992 and the same is at page 59 of the O.A. It was also stated that no reply has been given to the petitioner in this regard. The petitioner has no objection to dispose of this petition with a direction to the respondents to give appropriate reply to the said representation and also consider the case of the petitioner under the existing recruitment rules of 1985 when the vacancy arose on 6.12.1990 and not in accordance with the rules of 1992. The respondents should also consider his representation in view of his entitlement under the rules of reservation. An appropriate reply shall be given to the petitioner within four weeks from the date of receipt of a copy of this order. With this, this petition stands disposed of. No order as to costs.



(N. Sahu)
Member (A)

/as/



(Dr. Jose P. verghese)
Vice Chairman (J)