

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. 2639/92
T.A. No.

199

DATE OF DECISION 29-5-97

Sh. Suresh Chandra Singh Rawat Petitioner

Sh. V.S.R. Krishna

Advocate for the Petitioner(s)

Versus

UOI & Ors.

Respondent

None for the respondents

Advocate for the Respondent(s)

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri K. Muthukumar, Member (A)

1. To be referred to the Reporter or not? *yes*
2. Whether it needs to be circulated to other Benches of the Tribunal? *X*

Lakshmi
(Smt. Lakshmi Swaminathan)
Member (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 2639 of 1992

New Delhi this the 29th day of May, 1997

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)
HON'BLR MR. K. MUTHUKUMAR, MEMBER (A)

Shri Suresh Chandra Singh Rawat
S/o Shri Shiv Narain Singh Rawat,
R/o 196, Chukhuwala,
Dehradun-248001.

...Applicant

By Advocate Shri V.S.R. Krishna

Versus

1. Union of India through
The Director General,
Department of Posts,
Ministry of Communications,
Dak Bhawan,
Parliament Street,
New Delhi-110 001.
2. The Post Master General,
Department of Posts,
UP Circle,
Lucknow.
3. The Director.
Postal Services,
Department of Posts,
Dehradun Region,
Dehradun (UP).Respondents

None for the respondents.

ORDER (ORAL)

Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

Since none had been appearing on behalf of the respondents and the applicant's application for early hearing had also been allowed and the case was posted for March, 1997, a fresh notice had been issued to the respondents on 9.4.1997. In spite of that, none has appeared on behalf of the respondents.

2. In view of the above, we have heard Shri V.S.R. Krishna, learned counsel and perused the record.

18.

3. The brief facts of the case are that the applicant, who was working as Sorting Assistant with the respondents had appeared in the Departmental Competitive Examination for promotion to Upper Division Clerks cadre held in December, 1987. According to the applicant, from the Annexure A-1 letter dated 19.5.1988, he was declared passed in the 30% quota. However, by the letter dated 6.7.1988, Annexure A-2, in partial modification of the aforesaid results in the examination, the name of the applicant who was an officiating LDC was deleted, and instead ^{the} name of one Shri Raghvendra Kumar Srivastava, Telex Operator (LDC) was substituted. It was also mentioned in this order that this has been done in pursuance of the order of the Department of Posts, New Delhi. Subsequently, the applicant made a representation to respondent No.1, which was replied by the letter dated 22.11.1988 in which the applicant was informed that the question of bringing his name in the reserved list is under consideration but he was requested to take the next examination. Shri V.S.R. Krishna, learned counsel submits that the last date for submitting the application for the next examination was 25.5.88. At that time since the letter cancelling the results of the examination held in 1987 had not been issued, i.e., the letter dated 6.7.1988, the applicant had not applied for the same as he had already been declared successful by the earlier order/results dated 19.5.1988 of the examination held in December, 1987. The applicant, therefore, has filed this application to quash the impugned orders dated 6.7.88 (Annexure A-2) and 7.8.89 (Annexure A-7) wherein the respondents have stated that his representation has been further reconsidered and rejected.

js.

4. We have seen the reply of the respondents. In reply to paragraph 4(ii), they have stated that it is partly admitted that the applicant was actually working as Sorting Assistant (hereinafter referred to as SA) in the office of the SRO, Dehradun in 'SH' Division. They have also admitted that the examination in question is a competitive examination and that the name of the applicant was deleted as he was declared successful in 30% quota of LDCs whereas he was a candidate for 50% quota under PAs/SAs. They have stated that the name of the applicant has been deleted immediately when they discovered ^{the} irregularity, i.e., apparently regarding the quota. In the declaration of results by the order dated 19.5.88 as mentioned above, the applicant is being declared as passed under the 30% quota whereas now the stand of the respondents is that he comes under the 50% quota.

5. After having carefully considered the submissions made by the learned counsel for the applicant and the reply of the respondents, we find that the reply of the respondents is unsatisfactory and sketchy. They have not explained the reasons why the applicant was to be considered in the 50% quota and not in the 30% quota. They have ^{also 19.} not satisfactorily explained why in the first instance the respondents declared the result of the applicant in the 30% quota. It is also relevant to note that in the declaration of results under the 50% quota, a note has been appended in which it has been stated that the result of one more candidate will be announced later. If that is so, the respondents have also failed to explain as to whether the applicant's case was considered under the 50% quota as he had been declared passed in the earlier examination in 1987.

J.S.

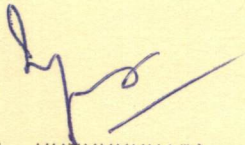
6. Another flaw in the action taken by the respondents is that before issuing the impugned order dated 6.7.88, they have not issued any show cause notice to the applicant. It is settled law that any order which will have civil consequences cannot be passed without complying with the principles of natural justice and in this case, there is not even a whisper on the part of the respondents that they have issued any show cause notice to the applicant before deleting his name from the list of successful candidates. On this ground alone, this application is entitled to succeed.

7. It is relevant to note that while in the letter issued by the respondents dated 22.11.88 it has been clearly mentioned that they are considering putting the name of the applicant in the 'reserved list', but in the counter-reply, a statement has been made that there is no provision of reserved list. We are unable to understand how such contradictory stand can be taken by the respondents in the case of the applicant. This has to be read in the context of the facts that according to the respondents, they have already committed an irregularity in declaring his result in the wrong quota, which they have tried to correct.

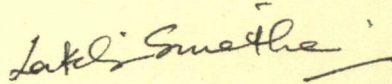
8. In the result, the application is allowed. The impugned orders dated 6.7.88 and 7.8.90 (Anneuxres A-2 and A-7) are quashed and set aside. In the letter declaring the results of the December, 1987 examination by the order dated 19.5.88 it is seen that one Shri Ram Bhawan Chaurasiya had been declared successful in the 50% quota and the result of one more candidate was to be announced later. In other

words, it appears that there were two vacancies available in the 50% quota. We have also to take into account the fact that the applicant has also been declared successful in the same examination though, according to the respondents, in another quota. Therefore, the respondents ~~should~~ ^{shall} reconsider the result of the applicant against the 50% quota in the December, 1987 examination on merits alongwith the other persons who have been declared passed, in accordance with the rules. He shall also be entitled to consequential benefits of his passing the examination in December, 1987 in accordance with the rules and instructions on the subject.

O.A. is allowed as above. No costs.



(K. MUTHUKUMAR)
MEMBER (A)



(SMT. LAKSHMI SWAMINATHAN)
MEMBER (J)

Rakesh