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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.2482/93

New Delhi this the 13th day of December, 1993.

THE HON'BLE MR J.P. SHARMA, MEMBER (J)

THE HON'BLE MR B.K. SINGH, MEMBER (A)

Shri H.C. Arya,
Meteorologist Grade I,
N.H.A.C., Office of the
Director General of Meteorology,
India Meteorological Department.
Lodhi Road, New Delhi-110 003.

R/o Qtr No.1036, Sector IV,
R.K. Puram, New Delhi-110 023.

....Applicant

(By Advocate Shri K.P. Dohare)

Versus

Union of India, through

1. The Secretary,
Ministry of Science & Technology,
New Mehrauli Road,
New Delhi-110 016.
2. The Director General of Meteorology,
Lodi Road,
New Delhi-110 003.
3. Shri H.S. Asthana,
Director, Civil Aviation
Training Centre,
Bamrulu, Allahabad - Through :
Director General Meteorology,
Lodi Road, New Delhi.
4. Shri P. Prasad,
Director,
Meteorological Centre,
Lucknow Airport, Lucknow.

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5. Sh. Y.M. Duggal,
Director,
Regional Meteorological Centre,
Safdarjung Airport, New Delhi. through:
Director General
Meteorology, Lodi Rd.
New Delhi 93.
6. Sh. J. N. Kanuja,
Director,
Meteorological Office,
Palam Airport, New Delhi - - do -
7. Sh. Faqir Chand,
Director,
Regional Met. Centre,
Lodi Road, New Delhi. - - do -
8. Sh. D. K. Mishra,
Director,
Satellite Section,
India Meteorological Dept.
Lodi Road, New Delhi - - do -
9. Dr. S.N. Kathuria,
Director,
Meteorological Centre,
Sector -22,
Chandigarh - - do -
10. Dr. R.N. Gupta,
Director,
Meteorological Office,
Palam Airport,
New Delhi. - - do -
11. Sh. M. Krishna Murthy,
Director,
Office of Dy. Director General,
of Meteorology, Shivaji Nagar
Pune. - - do -
12. Sh. V.K. Mittal,
Director,
Seismological office,
Shillong. - - do -
13. Sh. S. Rangarajan,
Director,
Regional Met. Centre,
Madras. - do -

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14. Sh. Thakur Prasad,
Director,
Meteorological Office, -
Nasik. Through:
Director General of
Meteorology, Lodi Road,
New Delhi.
15. Sh. S.K. Prasad,
Director,
Office of Dy. Director
General of Meteorology,
Shivaji nagar,
Pune. - - do -
16. Sh. P.K. Jain,
Director,
Central Detection Radar,
India Meteorological Dept.
Bhuj (Gujarat) - - do -
17. Sh. Asoi Lal,
Director,
Office of Dy. Director General
of Meteorology, Shivaji nagar,
Pune. - -do-
18. Sh K.P. Hazra,
Director,
Regional Meteorological Centre,
Lodi Road, New Delhi - -do-
19. Dr. J.V.M.Naidu,
Director,
Central Detection Radar,
India Meteorological Dept.
Vishakhapatnam - -do-
20. Sh. Surya Bal,
Director,
Regional Meteorological Centre,
Colaba, Bombay. - -do-
21. Sh.N.C. Shah,
Director,
Regional Meteorological Centre,
Alipur, Calcutta. - -do-

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22. Sh. K. Jayaraman,
Director,
Centre Detection Radar,
India Meteorological Dept.
Karnikal. Through:
Director General of
Meteorology, Lodi Road,
New Delhi.
23. Sh. A.K. De,
Director,
Office of Director General
of Meteorology,
Lodi Road, New Delhi. - -do-
24. Sh. D. Sinha,
Director,
Flood Meteorological office,
Guwahati. - -do-
25. Dr. S. S. Bhandare,
Director,
Meteorological Centre,
Tank Road, Jaipur. - -do-
26. Dr. V. Subramaniam,
Director,
Centre Detection Radar,
India Meteorological Dept.
Machilipatnam - -do-
27. Dr. R. V. Sharma,
Director,
Regional Meteorological Centre,
Colaba, Bombay. - -do-
28. Sh. A. K. Sengupta,
Director,
Regional Meteorological Centre,
Alipur, Calcutta. - -do-
29. Sh. J. Banerjee,
Director,
Regional Meteorological
Centre, Alipur, Calcutta. - -do-
30. Sh. C. K. Jain
Director,
Office of Director General of
Meteorology, Lodi Road,
New Delhi. - -do-

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31. Sh. T.K. Sarkar,
Director,
Regional Meteorological Centre,
Alipur, Calcutta. - through:
Director General
of Meteorology,
Lodi Rd. New Delhi.
32. Sh. L.K. Malik,
Director,
Regional Meteorological Centre,
Alipur, Calcutta - -do-
33. Sh. S.D. Prasad,
Director,
Satellite Section,
Office of Director General
of Meteorology,
Lodi Road, New Delhi. - -do-
34. Sh. Bhawani Dutt,
Regional Meteorological Centre,
India Meteorology Dept.
Nagpur. - -do-
35. Sh. K.C. Porel
Floor Meteorological Office,
Asansol. - -do-
36. Sh. K.M. Singh
Meteorological Centre,
Patna. - -do-
37. Sh. R.H. Walde
Office of Dy. Director General
of Meteorology,
Shivaji Nagar, Pune. - -do-
38. Dr. T. Ak Khan
Meteorological Centre,
Srinagar. - -do-
39. Sh. A. K. Sen,
Regional Meteorological
Centre, Colaba,
Bombay. - -do-

... RESPONDENTS

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ORDER (ORAL)

(By Hon'ble Mr J.P. Sharma, Member (J))

We have heard the learned counsel for the applicant Shri K.P. Dohae^v on 30th November, 1993. The learned counsel wanted a rehearing and the matter was again listed for hearing today. In the mean time, the applicant has also moved M.P. filed on 09.12.93 making request for rehearing and annexing certain more documents to be considered by the Bench at the time of hearing on admission.

We have heard the learned counsel at length. The learned counsel for the applicant argued that it is a fit case where a notice be issued to the respondents on the basis of grievance highlighted by the applicant that he belongs to the Scheduled Caste Community. We have given a patient hearing on all aspects of the matter. The applicant aged about 57 years has been working as Meteorologist Grade I since 1984, thus completed 5 years regular service for consideration by the Assessment Board constituted for the purpose for recommending promotion to the post of Director in the scale of Rs.3700-5000.

The promotion in the post of Director is done under flexible complementary scheme (FCS), on the basis of the recommendations of the assessment board. The Assessment Board considers only Confidential Report for which 80% marks are reserved and also interviews the concerned candidate for which 20% marks are reserved. The case of the applicant is that the Assessment Board considered the matter in the year 1980 and selected 71 persons but the name of the applicant was not recommended

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and has gone by default even though ^{he} belonged to the SC category. Again the Assessment Board considered the applicant in the year 1993 and made a recommendation vide its letter dt 18.05.1993 of about 37 persons and the name of the applicant was not recommended. Thus on either of the occasions, applicant was not selected. The case of the applicant is that he has been discharging his duties efficiently and he cannot in any way be just inferior and the Selection Committee/Assessment Board has been prejudicial in not recommending his case. The learned counsel for the applicant stated that a representation was made by the applicant and the respondents in their reply 10.06.93 informed him that the applicant was assessed for promotion but his name was not recommended for promotion by the Assessment Board. It is further stated in that letter that there are no reservations for SC/ST communities in the matter of appointment within the Grade post. The learned counsel has basically relied on the O.M. of 21 September, 1988 where for group A post also there is reservation for SC/ST candidates. The learned counsel has also referred to the fact that in the seniority list as on 24.04.1990, the educational qualification has not been mentioned but that is not the issue nor assailed in the present O.A. The only issue, is whether the Tribunal can sit as an expert-body/Appellate Authority to judge recommendations made by the Selection body or not? Secondly, whether the Policy of reservation applies in the present case and to the discipline of service to which the applicant belongs.?

Regarding the first issue, it is not disputed and has also been held in a catena of judgements by the Supreme Court that the Tribunal/Court cannot substitute

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itself as an Expert-body to reassess, appreciate the findings given by a Selection Body. In the present case, the Assessment Board on either of the occasions in 1990 as well as in 1993 did not recommend the applicant for promotion to the post of Director. We have gone through the grounds taken in the application where there are repeated averments/allegations that he has been discriminated, and that he has highly qualified. The merit in a particular sphere of service is to be judged by a specially constituted body and the applicant has been judged and assessed not only on the basis of ACRs but he has also been interviewed. If the applicant had any grudge or harboured any apprehensions against the constitution of that selection Body he was firstly within his right to approach authorities to effect change in the same on the ground that any of the of the members constituted that Committee would not have acted fairly and impartially. After the recommendation of the said Committee any such averment against any of the members of the Committee as projected by the learned counsel for the applicant can only be adjudged as after-thought. In view of this, we do not find that there is any substance in this averment.

Regarding second issue framed in the aforesaid O.A. it is not disputed that the discipline to which the applicant belongs is purely of extreme technical nature. The Assessment Board on the basis of the record of service and the performance in the interview came to the conclusion that the applicant cannot be recommended for promotion to the post of Director. Annexures filed by the applicant to the M.P. of 02 November, 1963, 28th December, 1961, 17th July, 1961, 06 October, 1969 lastly of

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23rd July, 1975, Annexure II, Annexure VI when read in the context that reservation clearly goes to show that there can be no reservation in the Scientific and Technical post. This point has also been conceded indirectly by the learned counsel for the applicant. However, he has modified his argument to the extent that there should be some concession available to the SC category candidate while assessing their performance for next higher promotion. He also argued that reservation is more specific term and concession is milder form. Taking the argument as it is, in the case of Indra Sawhney Vs Union of India & Ors reported in A.I.R. 1993 Page 477 at Page 576 in Para-112 lays down :-

"Be that as it may we are of the opinion that in certain services and in respect certain posts, application of the rule of reservation may not be advisable for the reasons indicated herein before. Some of them are :-

1. Defence Services including all Technical post therein but not excluding civil post.
2. All technical post in establishments engaged in Research and Development including those connected with Atomic Energy and Space and Establishments engaged in production of defence equipment.
3. Teaching post of Professors :- and above, if any.

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4. Post in Super Specialities in medicines, engineering and other scientific and technical subjects.
5. Post of Piolets and co-piolets in Indian Air Lines and Air India.

The list given above is merely illustrative and not exhaustive. It is for the government of India to consider and specify the service and post to which rule of reservation shall not apply."

The learned counsel has further referred to Para 400 of the Report at Page 644 where Hon'ble Supreme Court has observed that the reservation policy in promotional post at least for a period of 5 years if, otherwise stated in the body of the judgement.

We have given a careful consideration and also analysed condition raised by the learned counsel. In fact the learned counsel also happens to be an ex-employee of the Meteorological department. He has tried to convass that the service rendered in Meteorological department cannot be said to be of Scientific and Technical Nature. We are unable to subscribe to this view. Meteorology is itself a Science and covers within its scope the study of Meteorological system of predicting weather and allied subjects, which can only be acquired by special knowledge by a particular study keeping oneself abreast with the changing times and scientific knowledge. The applicant's counsel has argued that the applicant has also published certain papers. These itself goes to show that a research or a continuous study on the subject warrants an award of merit by next

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promotion. Taking all these facts into account rejection of the representation of the applicant by Impugned Order cannot be interfered with and also the Bench cannot sit as an Appellate Authority to judge whether the case of the applicant has been correctly considered by the Assessment Board.

We do not find any prima facie case and reject the application under Section 19 Sub-Section (3) of the Administrative Tribunal Act, 1985.



(B.K. Singh)

Member (A)



(J.P. Sharma)

Member (J)

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