

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD**

Review Application No. 19 of 2005

IN

ORIGINAL APPLICATION NO.1238 of 2004

Allahabad, this the 29th day of July, 2008

Hon'ble Mr. N.D. Dayal, Member-A

Hon'ble Mr. Ashok S. Karamadi, Member-J

1. Union of India through Secretary, Ministry of Posts and Communication, New Delhi.
2. Superintendent of Post Offices, Etawah Division, Etawah.

...Applicants.

(By Advocate: Shri S. Singh)

Versus

Smt. Reeta Devi, W/o Ravindra Kumar Tiwari, R/o Village & Post Bhaupur, District Auraiya.

.....Respondent.

(By Advocate:)

ORDER

N.D. DAYAL, MEMBER-A

In this Review Application, we have heard the learned counsel for the applicants on 10.7.2008 and orders were reserved. The legible copy of two judgments was to be supplied by rising of the Court on 10.7.08 by the learned counsel, which have not been received. The appointment of respondent following the advertisement at Annexure-2 was challenged in O.A. no. 417 of 2002 decided on 27.11.2003. The respondent belonged to O.C. category. The advertisement had been issued reserving the post for Scheduled Tribe, but no application had been received. The Tribunal noted that it was incorrect to make appointment from the

7

General category when the post was reserved for Scheduled Tribe. Appointment order was quashed and respondents were asked to fill up the post as per rules. It was provided that till the fresh regular selection, the ~~respondent~~ ^{applicant the OA under review} who was respondent no.3 in O.A., shall not be removed except in accordance with law. Thereafter, the respondent came before the Tribunal in Review Application no. 75 of 2004 in O.A. no. 417 of 2002 after challenge to O.A. was dismissed by Hon'ble High Court with liberty to file Review Application. The Review application 75 of 2004 was dismissed by the Tribunal on 1.10.2004. In the meanwhile the advertisement had been issued on 9.8.2004 for filling the post at Annexure-5. It appears that in this advertisement it has been interalia stated that the post is reserved for Scheduled Tribe category and at the same time it is stated that if there is no candidate available the post could be filled up by Scheduled Caste/OBC or General category (OC) which ever category has less representation. The O.A. no. 1238 of 2004 filed by the ~~respondents~~ ^{applicant} was decided on 14.10.2004 as per Annexure-I. The copy of judgment at Annexure-I is ~~ineligible~~ ⁱⁿeligible. However, operative part has been reproduced by the applicants in the Review Application. It has been explained that the grievance is in so far as a direction has been issued that the Tribunal found no reason that the applicant would not be considered in the said selection by the respondent authorities. In particular, the difficulty is expressed against the words, "we see no reason that the applicant would not be considered by the respondents." The order at Annexure-1 to the extent it is legible says that the Tribunal had noted that in case Scheduled Tribe is not available, the post would be filled up from SC/OBC or OC category which ever is represented less in number and in this context ~~it~~ ^{it} appears to have been said that the apprehension of the respondent is

misplaced because there is no reason that the ~~respondent~~^{applicant} would not be considering^{ed}. Evidently, the applicant being O.C. would have also received consideration in terms of advertisement at Annexure-5.

2. In view of the above, we do not find any error apparent on the face of record, nor that any such information or document has been produced which was not available to the respondents with due diligence at the time of hearing of the O.A. We do not find any sufficient ground to ~~intervene~~^{accord to} the prayer in the Review application. The Review Application is therefore, dismissed.


MEMBER-J

GIRISH/-


MEMBER-A