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Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No. 605 of 2005

For day, this the 24th day of November 2006

Hon'ble Mr. Justice Khem Karan, Vice Chairman
Hon'ble Mr. M. Jayaraman, Member (A)

1. Jawahar Lal S/o Sri Baldeo, r/o SS-29 Rapti Nagar Ist Phase Arogya Mandir, Gorakhpur.
2. Kehar Singh S/o Sri Ram Lal, r/o 22/5, Jagriti Bihar, Meerut.
3. Vishwanath Prasad S/o Sri Phundan, r/o Panchvati Nagar Bharwalia Buzurg, Post-New Shiv puri Colony, Gorakhpur.

Applicants

By Advocate Shri V.K. Goel

Versus

1. Employees' Provident Fund Organisation Head Office Bhavishya Nidhi Bhawan, 14 Bhikaji Cama Place, New Delhi through its Provident Fund Commissioner.
2. Employees' Provident Fund Organisation, U.P. Nidhi Bhawan, Sarvodaya Nagar Kanpur through Regional Provident Fund Commissioner.
3. Regional Provident Fund Commissioner U.P. Nidhi Bhawan Sarvodaya Nagar, Kanpur.
4. Vijay Kumar Srivastava, S/o not known posted as Section Supervisor, Provident Fund Organisation Varanasi, Ashok Bihar Ist Phase, Pahadiya, Pandeypur, Varanasi.
5. Ravi Shanker S/o not known posted as Section Supervisor Provident Fund Organisation, Nidhi Bhawan Sector-5 in front of Medical College Jagriti Bihar, Meerut.

Respondents

By Advocate Shri N.P. Singh

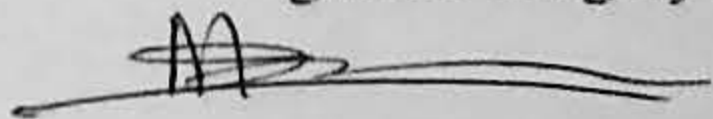


ORDER**M. Jayaraman, Member (A)**

In this O.A. the applicants (3 in number) are contesting the rejection of representation dated 19.04.2005 filed by applicant no.2 and also promotion Order dated 26.04.2005 passed by respondent no.3 namely Regional Provident Fund Commissioner, U.P. concerning respondent no.4 and 5.

2. The main plea taken by all the 3 applicants herein is that they belong to S.C./S.T. category and they had passed the written examination held in July 1999 and so they should be promoted first to the next higher post namely Section Supervisor (formerly known as Head Clerk) and not respondent no.4 and 5, who were junior but have been promoted on regular basis in preference to them.

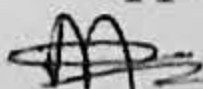
3. It has been stated by counsel for the applicants that earlier, promotion to the post of Section Supervisor used to be made out of the candidates as per the quota who qualified in the written examination. However, by letter dated 22.07.1997 'the Govt. of India, Ministry of Personnel, Public Grievances and Pension, Department of Personnel & Training issued a Circular to the effect that the lower qualifying marks prescribed for SC/ST candidates in various Departmental Qualifying Examination for promotion standard stood withdrawn. This was adopted by the Employees' Provident Fund Organization vide Circular dated 16.10.1997.' Their plea is that they had qualified in the examination held in March 1999, result of which was declared in July 1999. All the applicants had qualified in the examination. Subsequently, the Provident Fund Organization withdrew the earlier circular and issued a fresh Circular dated 22.11.2003 reintroducing the relaxed standard in the departmental examination for promotion in respect of posts reserved for SC/ST categories. Accordingly, 52 posts for general category and 12 posts for reserved category were declared.



The main burden of arguments of the applicant is that 12 candidates whose names figured in the letter dated 22.11.2003 cannot be equated with the applicants who were selected according to the standard applicable to the general category candidates and so they should be treated at par with 52 candidates of the general category only. Accordingly, they argued that they ought to be given preference in promotion by first exhausting the list of successful candidates namely the applicants in respect of the examination held earlier.

4. The respondents have disputed the above pleadings by stating that as per recruitment rules, 67 2/3% posts are to be filled up on the basis of seniority quota and 33 1/3 posts are to be filled, out of the candidates declared successful in the departmental examination held for promotion to the post of Section Supervisor against the examination quota. They have clarified that the vacancies in respective quota are subject to reservation announced by the Govt. of India and ought to be filled in by the candidates of the respective category according to percentage earmarked to SC/ST/General Category. The examination is only a qualifying one and a merit list is drawn; hence, the result is not restricted to number of vacancies available in a recruitment year.

5. The central theme of the arguments of the respondents is that the departmental examination conducted in pursuance of the notification dated 07.01.1999 and held on 07.07.1999 was exclusively for SC/ST candidates only and so it would be wrong to say that the standards prescribed for general candidate would be applicable to them. The respondents have also pointed out that by letter dated 22.04.2003 the Central Provident Fund Commissioner issued a clarification that SC/ST candidates qualifying in an examination which was limited to that category cannot be appointed against general category posts.



6. We have given our careful consideration to all the pleas put forward by counsel for the parties. A perusal of notification dated 07.07.1999 (annexure-1) shows that departmental examination held on the dates announced were exclusively for S.C. candidates only. Paragraph no.3 lays down eligibility criteria and reference to only candidates belonging to S.C. category. Though by circular dated 16.10.1997 it was mentioned that there will be no relaxed standard in the departmental examination for SC/ST category and there will be uniform standard for all the candidates, the fact remains that the applicants had appeared and qualified in the examination held exclusively for SC candidates and not for all general candidates. In the letter dated 19.07.1999 by which the result of the examination held from 10 to 12 March 1999 was declared. It was made clear in paragraph-1 itself that they successful SC/ST candidates will be eligible for promotion in their turn in either General or SC/ST vacancy that become available first according to their points in roster. From the above, it is clear that the present applicants cannot be treated at par with General candidates. The respondents had intimated that they will be accommodated in the promotion quota for SC/ST vacancies in accordance with their roster points. The clarification letter dated 22.04.2003 also makes the position clear.

7. It is also seen that by letter dated 22.11.2000 (following Ministry of Personnel letter dated 03.10.2000) earlier instructions were withdrawn and it was clarified that lower qualifying marks and the lesser standard of evaluation for selection of SC/ST candidates, the Departmental Qualifying Competitive Examination shall take effect from 03.10.2000 and that the selection finalized earlier to 03.10.2000 shall not be disturbed. It is nobody's case that on the date the applicants appeared for examination i.e. in March 1999, general candidates had also appeared or that there

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was uniform standard of the examination/evaluation. Since this did not happen and the examination was restricted only to SC/ST candidates, their arguments for treatment at par with General candidates fail. In view of the above, we do not find any substance in the plea made by the present applicants for promoting them ahead of General candidates on the basis of the examination held in March 1999.

8. In the light of above discussion, we do not find any substance in the O.A. and we cannot interfere with the impugned order dated 19.04.2005 or 26.04.2005.

9. Accordingly, the O.A. is dismissed with no order as to costs.



Member (A)


Vice Chairman

/M.M./