

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 23rd day of February 1995.

Original Application no. 1208 of 1988.

Hon. Mr. T.L. Verma, Judicial Member
Hon. Mr. S. Dayal, Administrative Member.

Ghanshyam, S/o Shri (Late) Nathuram, a/a 40 Yrs,
Instrument Repairer-I, Pay Account no. 28573, No. 1 Base
Repair Depot, Air Force Station, Chakeri, Kanpur.

... Applicant.

C/A Shri N.K. Nair

Versus

- i. Union of India, through the Secretary, Ministry of Defence, Government of India, New Delhi.
- ii. Air Officer Commanding-in-Chief (AOC-in-C), Headquarters Maintenance Command (HQ M.C.), Indian Air Force (IAF), Nagpur.
- iii. Officer Commanding, No. 1 Base Repair Depot (No. 1 BRD), Air Force Station, Chakeri, Kanpur.

... Respondents.

C/R Shri N.B. Singh

ORDER

(Hon. Mr. S. Dayal, Member-A)

This is an application under section 19 of the Administrative Tribunal Act, 1985, seeking promotion against reservation quota.

2. Since the matter relates to service of the applicant under the Central Government and the applicant

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is posted in Kanpur, the matter falls within the territorial jurisdiction of Allahabad Bench. The applicant claims to have exhausted the departmental remedies available to him. He has stated that ^{he} has not placed this matter before any other court, tribunal or authority.

3. The applicant made a representation dated 03.07.87 after promotion of ^I Shri Verghese addressed to the Officer Commanding I.B.R.D., A.F., Chakeri, Kanpur and followed it up with a representation dated 17.11.87 to the AOC, incharge, Maintenance Command, I.A.S. Nagpur. He filed the application on 21.11.88, which makes the bar of limitation in-applicable in this case.

4. The learned counsel for the applicant Shri N.K. Nair was heard. The learned counsel for the respondents was also heard.

5. The counsel ^{produce} for the respondents was directed to ~~produce~~ up-to-date roster register from 1983 onwards, within two weeks but the same has not been done.

6. We have gone through the pleadings and considered the arguments. The position which emerges after such consideration is set forth in the ensuing paragraphs.

7. Annexure A-6 of the OA which is a letter denying interview sought by the applicant with the commanding officer also gives the information that prior to 1983, a combined 40 point roster was maintained..... fresh 40 point roster in respect of each technical trade is being maintained from the year 1983 for promotion to

SCM in different technical trade."

8. A copy of 40 point roster of IBRD Air Force for the trade of SCM (Inst) is available at Annexure CA-I which contains 11 names. Assuming that this roster was opened on 01.01.83, it would have contained seven names and one post of SC & ST each to be carried forward as it remained unfilled. The requirement of the OM of the Ministry of Home Affairs no. 1/11/69/Estt (SCT) dated 22.04.70 quoted by the applicant in paragraph 6(2) of the OA that ^{the}unfilled reservations, if any, in the old rosters should be carried over in the new rosters." In accordance with this requirement Annexure CAI shows that roster and points were carried forward on 01.01.83.

9. Annexure CA I shows that four promotions were made after 01.01.83. The first promotion was against roster point no. 8 on 10.03.83. The position on this day, therefore, was that two vacancies for scheduled caste and one vacancy for scheduled Tribe candidates were carried forward. Yet in Annexure 6, which was a letter written by Senior Administrative Officer on 05.03.86, it was mentioned that only one vacancy existed for promotion of scheduled caste candidates when S hri Ram Saran was promoted in 1985.

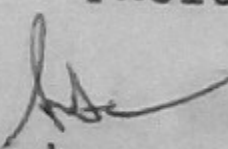
10. Annexure A-1 which is an office order of promotion dated 18.04.84 mentions that promotion of two general candidates to SCM (Inst) states that "In case ... any discrepancy in respect of reservation made for SC/ST candidate is found at later date, the affected person will be liable for reversion to the substantive post to make room for person who will be eligible." The applicant

attained eligibility on 23.5.84. (Paragraph 6 of the reply of the respondents).

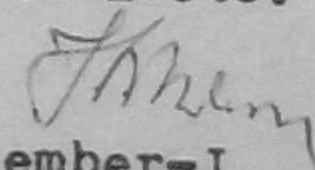
11. The applicant should have been considered by the respondents for promotion since carried over vacancies existed for scheduled caste candidates and a scheduled caste candidate was available in terms of the order for promotion dated 18.4.84 (Annexure A-II). He applied for it by his letter dated 18.05.84 claiming eligibility from 09.05.84. (Annexure A-2). The respondents have admitted that the representation was received. (Para 16 of their reply). The applicant has alleged that formalities for dereservation were not gone through, and the respondents in their reply have not specifically mentioned whether such formalities were gone through before the two posts were filled up in 1984.

12. We are of the view that the applicant was unjustly denied the right to be considered for promotion w.e.f. 09.05.84. Although the applicant has sought a direction for promotion as Senior Chargeman (Inst) on account of resultant vacancy due to promotion of Shri Verghese on 26.03.87, we feel that it will be in the interest of justice to issue direction to the respondents to convene a Departmental Promotion Committee to consider the suitability of the applicant for promotion to the post of Senior Chargeman (Inst) w.e.f. 09.05.84 and in case he is found suitable, grant him promotion against the first vacancy which was filled up in 1984, with all benefits arising therefrom.

13. There shall be no order as to costs.


Member-A

#PC#


Member-J