

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1371 of 1994

Allahabad this the 12th day of July, 2001

Hon'ble Mr.S. Dayal, Member (A)
Hon'ble Mr.S.K.I. Naqvi, Member (J)

Munna Khan, Son of Sri Hussain Khan, working as Land Supervisor, Station Headquarters, Babina Cantt. R/o House No.459, Near Bihariji Ka Mandir, Suniarana, Moh-alla Babina Cantt., Jhansi-284401.

By Advocate Shri Arvind Kumar Applicant

Versus

1. Union of India through the Secretary, Ministry of Defence, Government of India, New Delhi.
2. Commander, Headquarters, Allahabad Sub-Area, Allahabad.
3. Commandant, Station Headquarters, Babina Cantt. Jhansi.
4. Sri Prahlad Singh, Accounts Clerk, C/o Station Headquarters, Babina Cantt., Jhansi.

Respondents

By Advocate Shri S.C. Tripathi

O_R_D_E_R (Oral)

By Hon'ble Mr.S. Dayal, Member (A)

This application has been filed for a direction to the respondents to appoint the applicant on the post of Accounts Clerk w.e.f. the date the respondent no.4

has been promoted. The prayer is also made for grant of consequential benefits including the -arrear of salary. The applicant belongs to Group 'D' category. In the office of respondents, two posts of Accounts Clerk were created in 1980. The respondents called respondent no.4 for promotion to the post of Accounts Clerk. The applicant represented and the appointment of respondent no.4 was cancelled by order dated 12.3.1982. In 1993, the Government of India initiated Special Recruitment Drive for filling up the back log of the posts reserved for S.C. and S.T. Since the early two posts have lapsed, two posts were created afresh to be filled by promotion from Senior Group 'D' employees on the basis of seniority-cum-suitability. By order dated 23.11.1993 the respondent no.4 was promoted as Accounts Clerk under Special Recruitment Drive. The applicant has claimed that Shri Prahlad Singh was junior to him and, therefore, he should have been promoted on the basis of seniority-cum-suitability. The applicant has stated that he was treated as absent by the Selection Board, and selected the respondent no.4 on the basis of perusal of record. The applicant represented against the selection of respondent no.4 and was informed by letter dated 25.2.94 that his representation was under consideration. He was not furnished with any clarification, hence this present O.A. before us.

2. We have heard Shri Arvind Kumar, learned counsel for the applicant and Shri Rajesh Mishra brief holder of Shri S.C. Tripathi, counsel for the respondents.

3. Learned counsel for the applicant took us through Recruitment Rules as notified on 03.04.1980 and subsequent amendments introduced w.e.f. 25.04.88.

He has also referred to the letter of Station Headquarters, Babina Cantt. addressed to Headquarter Allahabad Sub Area, in which a clarification has been sought whether the post filled up by promotion of Shri Prahlad Singh was to be utilised for promotion of S.C. and S.T. only or otherwise and it was mentioned that in case the post was not utilised for S.C. and S.T. the promotion of Shri Prahlad Singh would be cancelled. Learned counsel for the applicant has also referred to the letter of Station Headquarter, Babina Cantt. addressed to the applicant on 24.7.1997 (annexure R.A.-4) that first vacancy was for General and second vacancy for S.C. was for recruitment for the post of Accounts Clerk.

4. The respondents have in their counter-reply mentioned that the vacancy was to be filled up under Special Recruitment Drive as reserved for S.C. candidate. It is mentioned that action was initiated when the vacancies were released in 1981 and the respondent no. 4 had succeeded, but the vacancy could not be filled up on account of representation of the applicant. The action was again initiated in 1989-90 for filling up the vacancy of Accounts Clerk under Special Recruitment Drive. A Board of Officers selected Shri Prahlad Singh. The vacancy could not be filled up since the Board of Officers was superseded by an order of Head Quarter Allahabad Sub Area for holding Departmental Promotion Committee. A Departmental Promotion Committee was held on 22.2.1992 and Prahlad Singh was selected to fill up the post of Accounts Clerk as S.C. candidate. It has been mentioned that out of two vacancies, one was reserved for S.C. candidate and promotion order was received

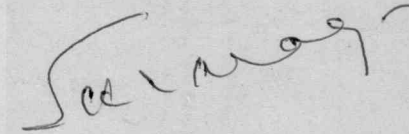
by Headquarter, Babina on 16.11.93. It is contended that no supersession had taken place in respect of the applicant by the said promotion of Sri Prahlad Singh, and he was selected against the reserved vacancy.

5. We find from the Recruitment Rules as existing w.e.f. 03.4.1980 that 90% of the post of Accounts Clerk ~~or direct~~ **by direct recruitment** were to be filled up by transfer ~~failing which/~~ and 10% by promotion from amongst group 'D' employees. Notices issued in pursuance of this rules required the candidate to have qualification of Matriculation, English Typing of 30 words per minute and knowledge of ^{accounts} keeping and ledger maintenance. These rules, were however, amended by Recruitment Rules notified on 25.4.1988 in which filling of 10% of vacancies of Accounts Clerk by promotion of Group 'D' employee was maintained, but the criterion was changed for promotion on the basis of seniority cum merit.

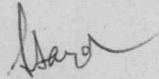
6. The reference made by Station Headquarter, Babina Cantt. to the Headquarter Sub Area Allahabad by letter dated 25.2.1994 seems to have remained under consideration of the respondents without any reply having been furnished to the applicant. It is clear from the reply given to the applicant by letter dated 24.7.1997 that first vacancy was required to be filled up by general and the second vacancy by S.C. candidate for promotion to the post of Accounts Clerk. Therefore, if there was only one vacancy in 1993, the same was required to be filled up by seniority cum merit in accordance with the recruitment rules. The position laid down in the recruitment rules could not have been altered by any executive instructions. If there were two posts then first one was required to be filled up by general candidate, and the second one by S.C. candidate.

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Hence we do not find the promotion of Shri Prahlad Singh justified, in case there is only one vacancy. However, we direct the respondents to consider the applicant as per rules for the said vacancy and if the applicant is found to be fit for promotion and there is nothing adverse against him, he should be promoted. The order shall be complied in three months time. No order as to cost.



Member (J)



Member (A)

/M.M./