

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1437 of 1994

Allahabad this the 3rd day of July 1997

Hon'ble Dr. R.K. Saxena, Member (J)
Hon'ble Mr. D. S. Baweja, Member (A)

Radhey Shyam Mishra son of Shri Aditya Prasad Mishra,
resident of Village Bakchunda, P.O. Meja Road,
District Allahabad.

Applicant

By Advocate Sri A.B.L. Srivastava

Versus

1. The Union of India through Ministry of Pension
Public Grievances & Densions, Shastri Bhawan,
New Delhi.
2. The Reigional Director, Staff Selection Commission,
8-A, B Beli Road, Allahabad.
3. Staff Selection Commission, 8-A B Beli Road,
District Allahabad.

Respondents

By Advocate Sri Prashant Mathur

O R D E R

By Hon'ble Dr. R.K. Saxena, Member Judicial

This is an application moved by the applicant
Radhey Shyam Mishra, seeking direction to the respondents
to select the applicant for the post in either of group
'x' or 'y' (U.P.Zone) from amongst the reserved quota
for physically handicapped persons.

2. The brief facts of the case are that the

respondents had issued notification (annexure A.1) for the selection of clerks in group 'x' and 'y' in the different departments under the Government of India. According to the said notification, the reservation for physically handicapped persons was made. The applicant who claims to be physically handicapped person, had applied for the post in both group 'x' and 'y'. His name was also registered as physically handicapped persons in the employment exchange. It appears that the respondents had conducted written test for the post of clerks which were advertised through annexure A-1. The applicant had appeared in the test and he qualified the written test. The respondents thereafter asked all those who had qualified in the written examination, to appear for typing test. It appears that the applicant had claimed exemption on the ground of his being physically handicapped person. The applicant was, however, permitted not to appear in the said typing test. It appears that the final result of the selection was declared but the name of the applicant did not find place in the said list. Feeling aggrieved of the said declaration of result in which his name did not find place, this O.A. has been preferred.

3. In this case two counter-affidavits and one supplementary counter-affidavit have been filed

:: 3 ::

by Shri S.C. Kaushik, Regional Director, Staff Selection Commission. The O.A. has been opposed on several grounds. It is contended that the applicant had appeared for the clerks grade examination 1992. On declaration of the result of the written test, the applicant was found eligible to appear in the typing test and accordingly he was informed. It is further contended that the applicant had taken the plea of being physically handicapped person and unable to give typing test and, therefore, exemption was sought. The exemption was granted and thereafter the result was declared. It is also averred that the applicant could not find place in the selection list of successful candidates for being appointed because he had obtained lesser marks in comparison to other persons. It is also pleaded that the Staff Selection Commission conducts the selection on the basis of the position of vacancies furnished by the various ministries, department and the result is declared accordingly. It is also stated that consolidated vacancy position is given to the Staff Selection Commission and accordingly the result is declared. In regard to the grievance of the applicant ^{about} regarding non-implementation or improper implementation of the reservation quota, it is claimed that it is the duty of concerned department which sends the requisition

:: 4 ::

to the Staff Selection Commission (for short S. S. C.).

According to the respondents, the reservation for various categories is not worked out by the Staff Selection Commission.

4. Through the supplementary affidavit, it is contended that after the exemption from the typing test, was granted to the applicant, his performance was adjudged on the basis of his written test in which his name could not find place in the selection list of physical handicapped category candidates. It is stated that there were 4 similarly situated orthopaedical candidates in U.P. Zone and they had secured more marks than the applicant had in the written test. One copy of the letter which was written to the Regional Director S. S. C., Allahabad by Under Secretary to the S. S. C. Delhi has also been brought on record. It appears from this letter that this applicant - Radhey Shyam Misra had secured 116 marks in the written examination whereas 4 other candidates whose roll numbers were 2423522, 2418781, 2624453 and 2644438, had secured 119, 121, 121 and 122 marks respectively. In this way 4 other persons who belong to the same physical handicapped category, had secured more marks in comparison to that of the applicant.

5. The applicant filed rejoinder and supplementary rejoinder and those very facts which were stated

:: 5 ::

have again been re-affirmed. It is contended that actual vacancies were not notified.

6. We have heard the learned counsel for the parties and have perused the record.

7. The applicant has approached the Tribunal to seek directions that the respondents be directed to include the name of the applicant in the select list. His main contention is that he belongs to physical handicapped category for which he had applied and he was declared successful in the written examination. There is no dispute that the applicant did not appear in the typing test because he had claimed exemption on the ground of his being physically handicapped person. The result, therefore, was that the marks which had been obtained by him in the written examination, were taken into consideration to judge his merit in the category of physically handicapped persons. The learned counsel for the respondents has drawn our attention towards the annexure which has been filed with the supplementary counter-affidavit indicating the fact that there were five physical handicapped candidates. The applicant was also included in them. The marks which were obtained by the applicant in the written test were 116 while 4 other candidates had obtained

:: 6 ::

more ^{marks} _{than} ⁶ the marks obtained by the applicant. The marks so obtained are already disclosed while disclosing the facts in supplementary counter-affidavit. It is, therefore, clear that the applicant stands at 5th position so far as the physically handicapped persons who had qualified the written test, are concerned.

8. The learned counsel for the applicant had been persistently arguing that the respondents had not declared the number of vacancies reserved for physically handicapped persons. He has, however, drawn our attention towards the representation annexure A-14 which was made to the Regional Director he S. S. C. in which had calculated vacancies for group 'x' and 'y' as 57 and 96 respectively. No basis on which such calculation has been made, could be disclosed. In the same representation the vacancies for physically handicapped in U.P. zone have been shown 4 because according to him there were 3 categories of persons in physically handicapped category and if a person was not found suitable from one category of handicapped person, the said vacancy should have been given to the other category of physically handicapped persons. He, thus, argues that 4 vacancies should be deemed reserved for physically handicapped persons of

:: 7 ::

all category. Even if it is assumed for the sake
of argument that there should have been 4 vacancies
earmarked for physically handicapped persons,
the present applicant ~~does~~ not come in the zone
of selection for the simple reason that he had
acquired only 5th position. The result, therefore,
is that the applicant has got no case.

9. On the consideration of factual and legal
position, we come to the conclusion that the O.A.
filed by the applicant has ~~not~~ merit and it is,
therefore, dismissed. No order as to costs.

Member (A)
Member (A)

Member (J)
Member (J)

/M.M./