

Reserved
Open Court 6

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAAHABAD BENCH,
ALLAHABAD.**

ORIGINAL APPLICATION NO. 1073 OF 1999

THIS THE 23rd DAY OF MAY, 2006

HON'BLE MR. K.B.S. RAJAN, MEMBER-J
HON'BLE MR. A.K. SINGH, MEMBER-A

Venkat Raman Singh, S/o Sri Shiv Badan Singh, R/o
Village & Post Berua Via Charwa, District Kaushambi.

Applicant

By Advocate : Sri K.P. Singh

Versus.

1. Union of India through Chief Post Master General, Lucknow.
2. Sri Sanjiv Ranjan, Senior Supdt. Of Post Offices, Allahabad Division, Allahabad.
3. Sr. Supdt. Of Post of Offices, Allahabad Division, Allahabad.
4. Sri Sita Ram Meena, Director Postal Services, District Allahabad.
5. Director Postal Services, District Allahabad.

Respondents

By Advocate : Sri P. Mathur

O R D E R

BY K.B.S. RAJAN, MEMBER-J

This case poses an interesting question. Reservation is admissible in government employment at certain ratio and after 2nd July, 1997, instead of vacancy based roster, post based roster is being follows. This could be possible when the posts are to be filled up selecting the people from any place to man

the post. However, where residential condition is one of the pre-requisites, how far it could be practicable? For example, the post of Extra Departmental Post Master (EDBPM) is tenable by local residents. If post based roster is adopted this post would throughout have to be either for general category or for reserved, since post based roster does not adopt rotation of vacancies. In the instant case, initially the vacancy was thrown out without mentioning whether the post was to be filled up by general category or reserved category and the requisition to Employment exchange suggested sponsorship by the Employment Exchange of both General as well as Reserved candidates and accordingly that institution acted. However, before final selection, but after calling for the applications etc., the respondents had abandoned that selection and called for fresh list from the employment exchange and this time sponsorship was to be only of reserved candidates. It is this aspect of the matter that has been the subject matter in this OA. The meritorious general candidate has challenged the cancellation of earlier selection process.

2. Now the brief facts as contained in the OA

- (a) The Sr. Supdt. Of Post Offices sent requisition to the Employment Exchange for sponsoring the names of the candidates for selection to the post of B.P.M.. In the said requisition, it was indicated that the post is for General category and if candidates of SC, ST or OBC must also be sent.
- (b) The Employment Exchange sponsored the name of 5 candidates. The Senior Supdt. Of Post Offices sent the proforma to fill up the application. The



applicant submitted the application alongwith the requirement made in the letter.

- (c) Suddenly a letter was sent by the Sr. Supdt. Of Post Offices to the candidates that the advertisement for appointment on the post of Branch Postmaster for the Branch Post Office, Berua has been cancelled. He has also the selection proceedings for the post of BPM, Berua.
- (d) Later The Senior Superintendent of Post Offices sent requisition to the Employment Officer, sponsoring the name of SC candidates for the post of BPM Branch Post Office Berua .
- (e) In regard to selection for SC, no advertisement was made as per direction of the Apex Court. When the applicant came to know that selection for the post of Branch Post Master, Berua is under process for SC candidate only, then immediately he sent an application to the Sr. Supdt. Of Post Offices, Allahabad.
- (f) The second selection process is for the post of BPM being made only for extraneous consideration to give favour to their own person by the respondent nos. 2 & 4..
- (g) Under the facts and circumstances, it is expedient and necessary that the selection may be cancelled and the selection may be made on the basis of requisition dated 15.4.1998 for un-reserved post of BPM, Branch Post Office Berua, District Kaushambi.

3. Respondents have contested the OA and their version is as under:

- (i) It was observed that the reservation as required under Director General Post letter dated 21.8.1997 has not been observed while issuing such

notification for the post and as such immediately on coming to know about such discrepancy in the notification, there was no other option, but to cancel the notification dated 15.4.1998. As per the directions of the Hon'ble Court, a roster is being maintained in the office of the answering deponent and the very notification issued vide letter dated 15.4.98 was not in accordance with the roster, which had been prepared as per the requirements duly circulated vide letter dated 21.8.1997.

- (ii) There was no other option but to re-advertise the post exclusively for SC candidate. The claim of the applicant is, thus, devoid of any merits and is liable to be dismissed.

4. Arguments were heard and the documents perused. The relevant portion of the Rule is extracted below:-

"It has been brought to the notice of this Office that at the time of issue of notification for filling up of posts of ED agents is number of cases no mention is made to the effect that the candidate belonging to reserved community would be given preference over others. However, while making selection subsequently the vacancy is treated as reserved for SC/ST/OBC and a candidate belonging to that community is selected ignoring the claim of better qualified candidates belonging to other community. This has lead to avoidable litigation in some cases.

- 3. The matter regarding reservation SC/ST/OBC in the matter of appointment to ED Posts has been examined in its entity. Accordingly, the Office letter dated 8.3.1978 referred to above has been amended to read as follows:-

"It is hereby clarified that candidates belonging to SC/ST/OBC physically handicapped with the minimum educational qualification prescribed in this office letter dated 12.3.1996 vis. Matriculation or equivalent, standard

for ED Branch Postmasters/ED sub Postmaster and VIII standard for EDDAs EDs and other categories of ED Agent (preference to be given to those who possess matriculation qualification) who satisfy the other conditions of eligibility as laid down in this office letter dated 30.1.1981 should be given preference over the candidates belonging to other community to the extent of scales of reservation fixed by the Government of India in respect of Group C and D Departmental employees recruited in that state/union territory on local basis even if the candidates belonging to other community are superior in merit to the reserved community candidates.

Provided that the candidates belonging to SC/ST/OBC physically handicapped categories and otherwise eligible for the post."

5. The above goes to show that in so far as posts required to be filled on local basis is concerned, since the posts cannot be earmarked in advance, either for general candidates or for reserved candidates, applications should be called for from all, including reserved candidates and at the time of selection, it has to be seen as to whether the existing incumbents to identical posts within the same State are adequately filled by reserved category and if not at that time it has to be filled up by the reserved category in preference to general though on merit the general category candidate was found more meritorious. By this way, the constitutional mandates of reservation would be fulfilled and also the post cannot remain throughout either of General post or reserved post.

6. Telescoping the above in the facts of the case, it is seen that what the respondents had done at the time of initial

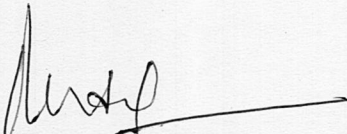
requisition was correct and in accordance with the above rule position. They had called for names from both general as well as reserved categories but without specifying that preference may be given to SC/ST candidates. In the next requisition, the sponsorship of the Employment Exchange was confined only to reserved candidates. This is not what was provided for in the Rules, extracted above. What should have been done is to call for sponsorship from the Employment exchange of both general as well as reserved candidates, but specifying that since in the event of selection if the post is decided to be filled up from reserved category as per the roster maintained State-wise, there should be adequate number of candidates from that category to enable proper selection, sponsorship of reserved candidates be not confined to one but be made more than one. In that event, applications would be from all and in case the post is to be filled up by reserved category, there would be available persons from reserved category to enable proper selection from among that category.

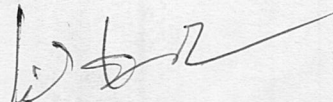
7. As per the instructions, earmarking the post for Reserved candidate was not contemplated at the time of sponsorship by the Employment Exchange. It shall be only at the time of selection. Thus, sponsorship of all the candidates from the Employment Exchange cannot be avoided. There shall, however, be a specific mention that preference may be given to reserved candidates. That would adequately safeguard to go ahead for filling up of the post by reserved category should the decision at the time of selection be that the post has to be filled

by reserved category. Restricting the sponsorship only to the reserved category, as adopted in the instant case, is thus not in conformity with the extant instructions and thus the action on the part of the respondents is illegal.

8. In view of the above, the OA succeeds. The respondents are directed to make a fresh requisition from the Employment exchange with the request that candidates from reserved category be also (in sufficient number) sponsored in addition to candidates from the general category and there shall be a conspicuous mention that preference may be given to the Reserved category candidates. By this way, there would be available opportunity to the general candidates ^{including those already applied} also and in the event of a decision at the time of selection that the post should be filled up by a particular category, action could be taken accordingly by giving preference to reserved category candidates and the most meritorious amongst that category shall be offered appointment, subject to his fulfilling other conditions of appointment. This exercise shall be completed within a period of four months from the date of communication of this order.

No cost.


MEMBER-A


MEMBER-J

GIRISH/-