

(7)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.239 of 2006.

Allahabad, this the 16th day of November, 2006.

Hon'ble Mr. Justice Khem Karan, Vice-Chairman
Hon'ble Mr. P.K. Chatterji, Member (A)

Manish Kumar Verma

Son of Shri Ram Adhin Verma,

Resident of 392/112 B, Tularam Bag,

Allahabad.Applicant.

(By Advocate : Shri S.K. Yadav)

Versus

1. Union of India, through Secretary, Ministry of Labour, South Block, New Delhi.
2. Welfare & Cess Commissioner Government of India, Ministry of Labour 585-A/2 Mumfordgunj, Allahabad.
3. The Regional Employment Officer, Allahabad.

...Respondents.

(By Advocate : Shri Anil Dwivedi)

O R D E R

By Hon'ble Mr. Justice Khem Karan, V.C. :

It was vide letter dated 21.11.2002, addressed to Regional Employment officer, Allahabad, that the office of respondent No.2, asked him to direct/ suitable candidates to appear before the selection committee on 21.12.2002 at 10.00 a.m., for selecting candidates for appointment on the post of Pharmacist. The proforma ^{disclosed} ~~enclosed~~ 08 vacancies in

✓

all, out of which one was shown as reserved for Scheduled Casts candidates, 04 were marked as reserved for candidates of other Backward Classes and remaining three were to be filled in from General Candidates. The applicant, who belongs to O.B.C., also figured in the list so sent. He appeared in written test as well as in interview. He says result was not declared and subsequently he came to know, that the respondent No.2 appointed 07 candidates on the post of ~~Pharmacist~~, one from S.C., two from O.B.C. and 04 from general candidates. He alleges that such candidates were appointed for extraneous considerations such as for money. His second contention is that once it was advertised that 04 vacancies were reserved for O.B.C. candidates, the respondent was found to appoint 04 persons from that category. Attempt has also been made to say that there reserved vacancies, were backlog one.

2. The applicant has prayed for issuing the order or direction to respondent No.2, to declare the result of selection for the post of Pharmacist held on 26/27-4-2003 pursuant to the notification dated 21.11.2002. He has also prayed for further directing the respondent No.1, to hold enquiry into the allegations against respondent No.2.

3. In their reply, the respondents have stated that allegations that appointment were made for extraneous consideration or for money, are totally false and frivolous. They have stated that the result was declared on 27.4.2003 and thereafter appointment letters were issued to as many as 07 candidates. They say that since Cement Factory Churk had closed so one vacancy of Pharmacist could not be filled. It is also stated that the appointment have been made as per law and as per the Roster. They say that in case the number of vacancies as earmarked earlier in favour of other Backward Classes were adhered to, the rule that reservation should not exceed 50%, would have breached.

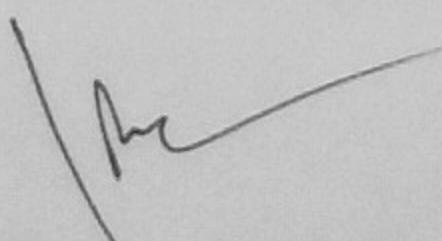
✓ ✓

(9)

4. Though Shri Yadav has tried to say that a few vacancies of reserved category were in the nature of Backlog but no sufficient data has been produced to show that any unfilled vacancies of previous years were carried forward to this year. This much is not disputed and it is also a settled legal position, that in the year 2003 reservation in services could not have exceeded 50%, of the vacancies to be filled in that year. It appears to us that realising the above legal position the respondent No.2, restricted the reserved vacancies to three, out of 07, leaving 04 to general candidates. Even, for a moment the contention of shri Yadav that some of the vacancies were carried forward from previous year to this year is accepted we doubt the rule of 50% could have been ignored. (See Ajit Singh -II, and Indra Sawhney's case, decided by Apex Court). So it is difficult to say that the respondents have committed any illegal ^{or} irregularity in selecting and appointing 04 persons from General Category, 02 from Backward and 01 from S.C.

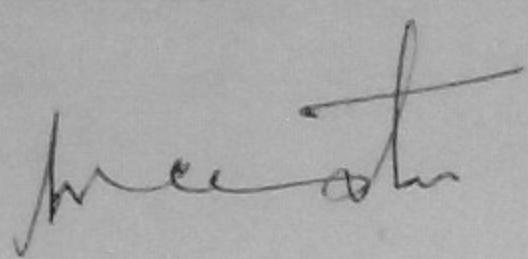
5. As regards, the alleged irregularities, bungling etc, we can say only this much that the applicant is free to bring it to the notice of respondent No.1 by giving application/presentation and if this is done, the respondent No.1 will look into the same and pass suitable order as may be permissible in law. It is difficult for this Tribunal to hold any inquiry here into those allegations.

6. So this OA is finally disposed of with a direction that in case the applicant gives any complains in writing to the respondent No.1, within a period of one month from today, as regards the alleged irregularities or bungling etc. in making the selection and appointment, the respondent No.1 will enquire into the same and take action

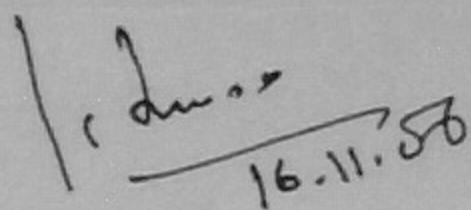


(10)

in accordance with law, within a period of three months from the date, such complaint is so received together with the copy of this order. No order as to costs.



Member-A


16.11.58

Vice-Chairman

RKM/