

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

Date of order : 28.11.2001

Present : Hon'ble Mr. S. Biswas, Administrative Member

Hon'ble Mr. Shankar Raju, Judicial Member

O.A.No.732/1996

:

Ajoy Kumar

Vs.

Union of India & Ors.

O.A.No.801/1996

:

Chittaranjan Baskey

Vs.

Union of India & Ors.

For the applicants : Ms. R. Basu, counsel (in O.A.No.732/1996)
Mr. T.D. Roy, counsel (in O.A.No.801/1996)

For the respondents : Mr. P.K. Arora, counsel

O R D E R

Shankar Raju, J.M.

O.A.No.732/1996 :

Heard the parties. Claim of the applicant is his promotion as Health and Malaria Inspector Gr.II.

2. Ld. counsel for the applicant stated that on 7.3.95 and Malaria two posts of the Grade II Health/Inspectors have been declared unreserved and a selection test was held for filling up the posts. One Mr. Ashoke Kumar Mondal though he was a SC candidate stood first in the test on the basis of merit and was later on given promotion treating him to be qualified in general standard

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against unreserved quota. In this context referring to the stand of the respondents it has been stated that as per the instructions where percentage is applicable and keeping in view the 15% quota reserved for SC category in a small cadre of 6 posts one post is to be reserved for the SC. It is further stated that the promotion of Sri Ashoke Kr. Mondal without being accorded relaxed standard for SC community should be treated as promotion against unreserved vacancy and in that event another post in the category of SC is to be filled up by the next available candidate who is admittedly the applicant who stood 5th in the merit list.

3. On the other hand, the respondents stated in their reply that though there was already a SC candidate in the cadre and Sri Ashoke Kr. Mondal has been promoted to the post of H&MI as SC candidate, the applicant is to be considered in the normal seniority and it is further stated that the applicant has appeared in the viva-voce and thereafter in the written test and by the orders of this Court dated 18.6.96 it was held that any appointment made by the respondents shall abide by the result of this application.

4. We have carefully considered the rival contentions of the parties in view of the decision of the Hon'ble Apex Court in case of R.K. Sabharwal Vs. Union of India in which it was held that in the event a candidate belonging to the reserved category in his own merit qualifies, then he would not be considered against the reserved category. One Sri Ashoke Kr. Mondal who after dereservation of two posts has been considered on his own

merit against that quota could not be treated as promoted against reserved quota of SC against one post in the cadre and as such the applicant who is the next available candidate has a right to be considered for Gr.II Health and Malaria Inspector in the quota of reserved candidates (SC) as per the extant rules and instructions.

5. In the result, the O.A. is disposed of with direction to the respondents to hold a review DPC/Selection for considering the case of the applicant for promotion as Gr.II Health and Malaria Inspector under SC quota and according to the necessary relaxed standards in the cadre and if the applicant succeeds he would be accorded promotion with all consequential benefits from the date of selection. This direction shall be complied with by the respondents within a period of 3 months from the date of receipt of the order. No cost.

O.A.No.801/1996 :-

Heard the parties. The applicant in this case who qualified in the written test made for promotion to the post of Gr.II Health and Malaria Inspector relying on the circular dated 19.8.96 contended that in case of the cadre having less strength i.e. upto 7 posts, the rest system is to be made applicable as referred to in one of the letters written to the Divisional Railway Manager by the Chief Works Manager wherein the grievances of the applicant were found genuine and asked to be looked into by the appropriate authority.

In this view of the matter to meet the ends of justice this O.A. is disposed of with the direction to the respondents to consider the request of the applicant contained in his representation and in view of the communication of the Chief Works Manager alongwith the circular of the Eastern Railway dated 19.8.96 for promotion as Gr.II Health and Malaria Inspector in ST category and to pass a detailed speaking order within two months from the date of receipt of this order. This direction shall be complied with by the DRM, Eastern Railway. In case the applicant's grievances are found genuine, and if he is found suitable^{as per rules} he shall be accorded promotion to the post of Gr.II Health and Malaria Inspector from the date of selection with all consequential benefits. No cost.

S. Ray
MEMBER(J)

S.M.

S. Ray
MEMBER(A)