

CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR.

DATE OF ORDER: 10.12.2002

ORIGINAL APPLICATION NO: 22 of 2001

Sudhir Singh son of Shri Birbal Singh, aged 36 years R/o C-22, Heavy Water Plant (Kota) Rawatbhata, Fireman B, Heavy Water Plant (Kota), Rawatbhata, District Chittorgarh.

...Applicant.

V E R S U S

1. Union of India, through Secretary to Government,
Department of Atomic Energy, Anu Shakti Bhawan,
Maharaja Chhatrapati Shivaji Marg, Mumbai -2.

General Manager, Heavy Water Plant (Kota),
Anushakti, District Chittorgarh.

3. Administrative Officer, Heavy Water Plant (Kota),
Rajasthan District Chittorgarh.

...Respondents.

Mr. Vijay Mehta, counsel for the applicant.

Mr. Vinit Mathur, counsel for the respondents.

CORAM:

HON'BLE MR. A.P. NAGRATH, ADMINISTRATIVE MEMBER.

HON'BLE MR. J.K. KAUSHIK, JUDICIAL MEMBER.

: O R D E R :

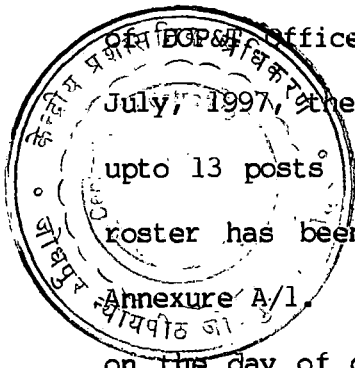
Per Mr. A.P. Nagrath, Adm. Member:

The respondents had notified one post of Leading Fireman "A" in the pay scale of Rs 1200-1800 vide circular dated 16/17.5.1997. This post was shown to have been reserved for S.C. Apparently, no further action was taken on this notification and later by circular dated 02.01.2001 (Annexure A/6), two posts of leading Fireman "A" in

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the pay scale of Rs 4000-6000 were notified for being filled up. In this notification, one post has been reserved for S.C. category and one post for General Category. The applicant is aggrieved with the said notification for the reason that no post has been earmarked for O.B.C. The applicant belongs to O.B.C. category.

2. It is the common case of the parties that the sanctioned-strength of the cadre of Leading Fireman "A" is 5. Under the recruitment rules, these posts are to be filled up by the process of direct recruitment. The department has decided to confine this recruitment to the eligible serving employees working in the Heavy Water Plant Kota. It is also admitted on either side that in terms

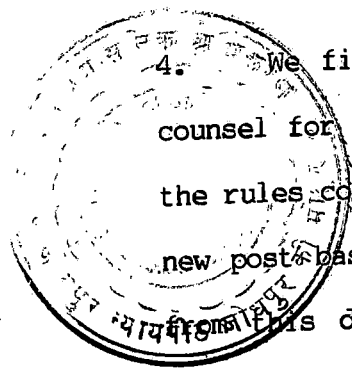


Office Memorandum No. 36012/2/96/Estt. (Res.), dated 2nd July, 1997, the reservation is post-based and in a small cadres of upto 13 posts "L" type roster is applicable. A copy of the model roster has been annexed as Appendix to Annexure IV annexed with Annexure A/1. It is also the admitted position on either side that on the day of coming into force of this post based roster, it has been found that two posts were manned by S.T. candidate and one by General Candidate. Remaining two posts have fallen vacant for which this process of filling up has been initiated. It is this process which has come under scrutiny before us.

3. We have heard the learned counsel for the parties. The short point involved for our consideration is whether action of the respondents in not reserving any post for O.B.C. candidate is in conformity with the rules. The learned counsel for the respondents straneously argued that the process of filling up of these vacancies is in fact first and second replacement in the cadre. By referring to the "L" types roster, he stated that the first replacement point has to be treated as un-reserved and second one reserved for S.C. On the other hand, the learned counsel for the applicant contended that first replacement point had already been consumed when one Shri Guman

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Singh was appointed after the new roster came into effect. Accordingly to the learned counsel for the applicant this was the case of second and third replacement and for this one post is to be reserved for S.C. and second for O.B.C.



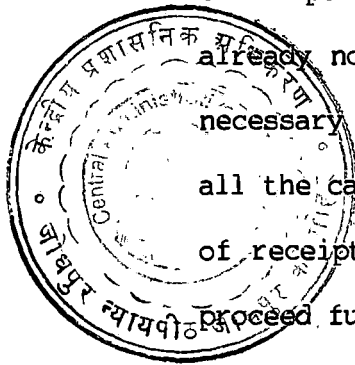
4. We find that both these interpretations given by the learned counsel for either side, in our considered opinion do not interpret the rules correctly. We have to first accept and appreciate that the new post-based roster has come into effect from 02.07.1997. It is this day only that the existing employees have to be placed against the new roster position to determine the actual representation of the incumbents belonging to different categories in a cadre. This stands explained in the O.M. dated 02.07.1997 itself where the method of initial operation has been clarified. It has been explained very clearly that after all existing appointments have been adjusted in the respective rosters a tally has to be made to determine the actual percentage of representation of appointees belonging to different categories in the cadre. It has been explained in para 2 of the process of initial operation that vacancies arising from retirement etc. of candidates belonging to such categories shall be filled up by appointment of candidates belonging to the categories to which the relevant roster points, against which the excesses occur, belong. The obvious meaning of this procedure is that the replacement points will come into reckoning only after the cadre has been initially constituted as per this "L" type roster. Initial constitution has to be seen by reading vertically under the column "Initial Recruitment." While referring to this roster, we find that in a cadre of 5 slots no 1, 2, 3 and 5 are earmarked as un-reserved whereas no. 4 is earmarked as for O.B.C. As per the facts in this case, presently only 3 posts have been filled up and 4th and 5th posts are vacant which are being filled up by the impugned notification. As per this roster, the post No. 4 has to go to O.B.C. candidate and no. 5 is to be earmarked as un-reserved. The obvious

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inferences is that no post can presently be reserved for a S.C. candidate and instead it must be reserved for a O.B.C. candidate. Thus, this notification dated 02.01.2001, to the extent it indicates one post as reserved for S.C. category is not in conformity with the rules and to that extent this circular needs amendments.

5. In the light of discussion in the previous paragraph, we pass the following order:-

"The circular dated 2nd January, 2001, (Annexure A/6), for filling up two posts of Leading Firemen "A" in the pay scale of Rs 4000-6000 is required to be amended by reserving one post for O.B.C. category in place of S.C. Category. The other posts shall be treated as for General Category, as already notified. The respondents are directed to circulate necessary amendment in the notification for information for all the candidates within a period of one month from the date of receipt of a copy of this order. The respondents shall proceed further only after receiving applications against the amended notification. Under the circumstances no order as to costs.



J.K. Kaushik
(J.K. KAUSHIK)

Judl. Member

A.P. Nagrath
(A.P. NAGRATH)

Adm. Member

...

Kumawat