

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Original Application No. 50/2011
With MA No.45/2011 and 290/00260/2014

Jodhpur, this the 25th day of November, 2014

CORAM

Hon'ble Mr. Justice Kailash Chandra Joshi, Judicial Member
Hon'ble Ms. Meenakshi Hooja, Administrative Member

Sukh Dev s/o Shri Surja Ram, aged about 53 years, resident of Qtr No. 22, Postal Colony, Nagaur, at present employed on the post of Postal Assistant (SBCO), Nagaur HO, Nagaur.

.....Applicant

By Advocate: Mr. J.K. Mishra

Versus

1. The Union of India through Secretary to the Government of India, Ministry of Communication and Info Technology, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Director General, Department of Posts, Dak Bhawan, New Delhi.
3. The Chief Post Master General, Rajasthan Circle, Jaipur - 402007.

.....Respondents

By Advocate : Ms. K. Parveen

ORDER

Per Justice K.C. Joshi, Member (J)

Considered the Misc. Application No.45/2011 for condonation of delay. To decide any case on merit always advances cause of justice and rather to decide such an application on technical grounds of delay, it would be better to decide the case on merit. Therefore, in view of facts narrated in the application, we allow the application for condonation of delay.

2. In the present OA filed u/s 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following reliefs:-

- i) That the respondents may be directed to fill up the backlog vacancies of the post of Inspector of Post Offices of SC/ST categories and also review the case of applicant and consider his candidature for promotion against the backlog SC reserve vacancy for the year 1999, as per rules of special relaxation for the post in question and allow all consequential benefits. Any adverse order, if passed, on the representation of the applicant may be quashed.
- ii) That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- iii) That the cost of this application may be awarded.

3. Brief facts of the case, as stated by the applicant are that he was initially appointed to the post of LDC on 19.6.1987, which post was redesignated as Postal Assistant w.e.f. 1.8.1991. Thereafter he enjoyed benefit of first and second financial upgradation under ACP/MACP scheme. The applicant belongs to Scheduled Caste category. The applicant has stated that during the year 1999, one vacancy for the post of Inspector of Post Offices (IPO) against SC point was notified in addition to two vacancy for ST and two for unreserved candidates. The applicant fulfilled the eligibility and he applied for the said examination but the same was cancelled. The said examination was held afresh in the year 2000 and the applicant again appeared in the same, but one unreserved candidates qualified the said examination. The vacancy for SC category was carried forward to the year 2001, as per item No.3 of letter dated 27.2.2009 obtained under RTI (Ann.A/1). The applicant has further averred that during the year 2000, there was no vacancy for SC reserved category notified. Only two vacancies for unreserved and one for ST category was notified. However, one Shri Kapoor Chand Verma passed in the same as per general merit, but he has been adjusted against SC point No. 20 in the year 2000 as per the information supplied through RTI. In the year 2001 two vacancies each for the post of IPO were notified as reserved and 4 unreserved as per communication dated 14.10.2008. One candidate belonging to SC category qualified and was accordingly promoted. Subsequently, the SC vacancy for the year 2001 was filled on 25.8.2008 by promoting one Shri Hanuman Lal Bairwa by

reviewing his case and giving special relaxation prescribed for failed candidates of reserved category. The applicant has averred that in view of the above position one SC vacancy for the year 1999 remained vacant and the review on the lines the case of one Shri Hanuman Lal Bairwa was required to be carried out, but such review was not carried out for the vacancy of 1999. Had that be done, the applicant would have passed under relax standards and got promotion against SC point vacancy for the year 1999. The applicant submitted a representation and also served a notice for demand of justice, but his grievance has not been redressed by the respondents. According to the applicant, there are number of backlog vacancies for the post of IPO against SC points including one SC vacancy for the year 1999, but the same are filled in wrongly either by general candidates or by SC/ST candidates who passed the selection test as per their own merit and also against unreserved post. Therefore, aggrieved of the action of the respondents, the applicant has filed this OA praying for the reliefs as mentioned above.

4. By way of reply to the OA, the respondents have denied the right of the applicant and submitted that the applicant applied to appear in the Departmental Competitive Examination for promotion to the cadre of IPO for the year 1999 to be held on 11.1.2000. The applicant was allowed to appear in the said examination, but the applicant did not find place in the successful candidates, as such, he did not obtain minimum qualifying marks prescribed for SC category candidates. The unfilled 1 vacancy of SC category for the year 1999 could not be adjusted in the year 2000, as such, total reservation cannot be given beyond 50% quota of total vacancies (out of three total vacancies allotted 02 for UR and one for ST), however, the same has been adjusted in the vacancies for the year 2001 as clarified vide Ann.A/4. The applicant again appeared in the IPO examination 2001 held on 19th to 21st March, 2002 (for UR-4, SC-2 and ST-2 vacancies) in which one SC candidates Shri Dayanand was declared successful and accordingly, one vacancy of SC category remained unfilled. To fill up the one unfilled vacancy of SC category for

the year 2001 Circle High Power Committee was held on 11.1.2007 and considered 14 failed candidates including the applicant and recommended Shri Hanuman Lal Bairwa to be declared successful candidates against the unfilled vacancy of SC category for the year 2001 in IPO examination by awarding 5 grace marks in Paper-V to bring to qualifying standard and other candidates including the applicant are failed in more than one paper and require comparatively more marks than Shri Hanuman Lal Bairwa. It has been further submitted that name of Shri Kapoor Chand Verma (SC candidates) passed against UR category in the year 2000 was written at point No. 20 erroneously which will not adversely affect the matter of the applicant, as such, 33.34% quota has been diverted in 2001 for direct recruitment quota and representation of reserved candidates have been over. Therefore, the OA deserves to be dismissed.

5. In rejoinder to the reply of the OA, the applicant has reiterated the submissions made in the OA.

6. Heard both the parties. During course of the arguments, counsel for the applicant contended that the applicant has filed detailed representation/notice for demand of justice dated 25.09.2010 before the competent authority and the competent authority has not decided the same and it is lying pending with them. Counsel for the applicant also contended that in the reply it has been averred that Daya Nand belongs to SC category whereas in the information sought under RTI Annex. A/2, it has been shown that the Daya Nand belongs to ST category. In Annex. A/1 he has been shown as SC candidate thus, there is contradiction in Annex. A/1 and A/2 about the category of Daya Nand. From perusal of the pleadings of the parties it appears that there are some inherent contradictions in counting of the roster. In addition to this, while promoting candidates belonging to general category and also those candidates belonging to reserved category but passing examination as per general merit, some irregularities have been pointed out in para No. 7 of the




notice for demand of justice Annex. A/9. Therefore, in view of the averments made by the parties and facts averred in the notice for demand of justice, we intend to dispose of this OA with certain directions.

7. The respondents are directed to decide the notice for demand of justice dated 25.10.2010 (Ann.A/9) by passing a reasoned and speaking order within 4 months from the date of receipt of the order.

8. The OA stands disposed of accordingly with no order as to costs.

9. In view of the order passed in OA, no order is required to be passed in MA No.290/000260/14, which stands disposed of accordingly.


(MEENAKSHI HOOJA)
Administrative Member

R/


(JUSTICE K.C.JOSHI)
Judicial Member

12/12/14

R/c
2/12/14