

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH**

O.A.No.1319 of 1997

Date of Order :16-03-05

**Present :**      **Hon'ble Mr. J.K. Kaushik, Judicial Member**  
                 **Hon'ble Mr. M.K.Mishra, Administrative Member**

**Chandra Mohan Soren & Ors  
VS.**

**Union of India & Ors.**

**For the Applicant      : Mr. B. Mukherjee, Counsel**


**For the Respondents : Mr. R.M Roychowdhury, Counsel**

**ORDER**

**Mr. J.K. Kaushik, JM:**

We have heard Ld. Counsel for both the parties and have perused the pleadings and records of this case. Shri Chandra Mohan Soren alongwith 14 others have filed this original application for seeking a direction to the respondents to cancel or alter the impugned panel as set out in Annexure-A/4 with further direction to include the name of the applicants in subsequent panel, amongst other reliefs.

2.      The facts, in brief, which are considered materials for resolving controversy involved in the present case are that all the applicants belong to reserved community and there was shortage of 141 posts of Group 'D' for SC/ST reserved category and a special drive had been moved to fill up the backlogs. Subsequently, the selection was conducted on the basis of interview and out of 141 vacancies, only 101 candidates have been empanelled. But none of the applicants has been empanelled. It has been complained of that the respondents have modified and reduced number of vacancies which is arbitrary and illegal. It is also averred that there are still vacancies of Group 'D' posts and there is shortfall against the SC/ST quota. But the respondents are deliberately not filling up those posts.



3. On the other hand, the respondents have stated in their reply that there is no vacant post against reserved quota. The number of vacancies came to be modified with the approval of the competent authority. As far as the selection is concerned, it is as per recommendation of the Selection Committee. The panel which is prepared covered all the shortfall of SC/ST vacancies. Therefore, none of the grounds raised in the original application is sustainable. Both the Ld. Counsel have reiterated the facts and pleadings raised therein. We find that a specific assertion has been made on behalf of the respondents that there is no shortfall of vacancy in respect of SC/ST category against the Group 'D' post and the panel was prepared as per the available vacancies. The same has been sought to be modified by the competent authority; but no rejoinder to the same has been filed. We have no reason to dispute the version of the respondents in absence of any plea by way of rejoinder or by and any other documentary proof as far as the facts of the case are concerned.

4. Looking the matter from legal point of view in the instant case it is not the case that any discrimination has been meted out to the applicants. The applicants have in fact not been recommended and there is no plea of malafide or arbitrariness against the decision of the Selection Committee. None of the applicants found place in the merit list. It is not the case of the applicants that the respondents intentionally did not fill up certain posts. One does not have any right to be appointed merely on the basis of empanelment even. However, in the instant case, there is no empanelment and none of the applicants has been empanelled. We have another limitation that we cannot sit over the recommendation of the DPC, in absence of any extraneous material which might have been taken into consideration by the DPC so as to vitiate the proceedings. As regards non-filling up the vacant posts, the legal position is settled by the Hon'ble Apex Court where their Lordships of the Supreme


have categorically held that due to mere empanelment one does not have any indefeasible or vested right to get appointment if the decision is taken not to fill up the vacant posts and the same would be in order until the same is questioned on the ground of malafide or biasness or some extraneous reasons, which is not the case here.

5. Their Lordships of Supreme Court have gone to the extent of saying the following : <sup>in aforesaid decision</sup>

"It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation of qualified candidates to apply for recruitment and on their selection they do not have any right to the post. Unless the relevant recruitment rules so indicate the state is under no legal duty to fill up all or any of the vacancies".

6. In view of what has been stated and discussed above, the original application is devoid of any merits and the same is dismissed accordingly. However, there shall be no order as to costs.

  
Member(A)

  
Member(J)